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## Human Source Ethics Committee

# Terms of Reference

Version 1.0

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## Document Control

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VERSION	DATE	AUTHOR	DESCRIPTION
Version 1.0	12/04/2020	AC Neil Paterson	

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**HUMAN SOURCE ETHICS COMMITTEE**

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**TERMS OF REFERENCE****1. PURPOSE**

The purpose of the Human Source Ethics Committee is to provide ethical governance and decision-making over certain human sources or certain potential human sources as per the categories in section 8.3 of the VPM Human Sources. The committee may also review applications to manage human sources outside the technical requirements of the policy.

**2. OBJECTIVES**

The objectives of the Human Source Ethics Committee (HSEC) is to decide:

- Whether certain potential human sources (categories 1 – 4) will be approached and if so under conditions;
- Whether a potential human source (categories 1 to 4) will be registered in accordance with this policy and if so under what conditions (refer to VPM - Human Sources sections 8.3 – 8.9);
- Whether to permit any departure from a technical requirement of the VPM - Human Sources in relation to the management of a human source (refer to VPM - Human Sources section 8.10);
- Whether an active or deactivated human source should be transitioned into a witness in context of information provided to police in the human source relationship (refer to VPM - Human Sources section 8.11).

**3. MEMBERSHIP**

The membership of the committee is:

- Assistant Commissioner, Intelligence and Covert Support Command (Chair);
- Assistant Commissioner, Professional Standard Command (PSC);
- Two (2) Assistant Commissioners or Commander/s (other Command or Region than a matter under consideration in that meeting);
- Executive Director, Legal Services Department (LSD).

In addition to the core members, the HSEC is supported by the Central Source Registrar (CSR) in an advisory capacity, and the Detective Inspector, Human Source Management Unit (HSMU) as secretariat. The CSR will present matters for consideration to the committee members as required.

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In the event that a member of the committee cannot attend a particular meeting, they can nominate a proxy to attend on their behalf. Any proxy for the Executive Director, Legal Services Department, must be legally qualified.

The HSEC may invite a suitably qualified external person to advise the HSEC on any particular issue.

**4. QUORUM**

A quorum will consist of at least three (3) members which must include the AC ICSC and ED LSD or their proxy.

**5. OTHER ATTENDEES**

The chair of the HSEC may request additional people to form part of the committee depending on the circumstances of the matter under consideration.

**6. CONFLICT OF INTEREST**

Any member of the committee who has a conflict of interest must advise the committee at the commencement of the meeting or as soon as a conflict is identified. The AC PSC will advise the appropriate course of action for any identified conflict of interest.

**7. FREQUENCY OF MEETINGS**

Meetings will be scheduled on a monthly basis. Additional meetings may be scheduled as required by the CSR in consultation with the Detective Inspector HSMU.

**8. AGENDA AND MINUTES**

The Detective Inspector HSMU will be responsible for setting the agenda and ensuring all documents have been provided to committee members via an Interpose link at least three business days prior to each meeting. If a matter requires the urgent consideration of the committee, then the agenda and documents will be provided as soon as is possible prior to the meeting, noting this may be less than three business days.

The Detective Inspector HSMU will be responsible for the preparation of minutes and all relevant documentation emanating from and relevant to each meeting. The minutes must contain the rationale of any decisions made by the committee.

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The Detective Inspector HSMU or nominated staff will ensure the minutes and all relevant documentation is presented to the Chairperson within ten (10) working days following the HSEC meeting.

**9. OUT OF SESSION MEETINGS**

From time to time, the committee may be required to consider a matter out of session from the usual meeting schedule, including after usual business hours or when a matter is time critical. Out of session meetings can only occur at the discretion and authority of the Chairperson.

An out of session meeting can be held by in-person attendance or via teleconference. Usual membership and quorum requirements apply to any out of session meeting.

Any out of sessions decisions will be formally tabled and ratified at the next monthly meeting.

**10. VOTING**

All decisions of the HSEC must be unanimous. If the committee cannot reach a unanimous decision, the matter must be referred to the Deputy Commissioner, Specialist Operations, who will decide the matter.

**11. ACTION ITEMS ARISING FROM MEETINGS**

Any action item arising out of any meeting of the committee, must be reported on at the next monthly meeting of the committee. If an action item from a previous meeting relates to a matter being considered in an out of sessions meeting, then the action item must be reported on at that meeting.

**12. REGISTRATION CONSIDERATIONS**

In considering whether to allow an approach to a potential human source or to register a human source that has been referred to the HSEC, then the following considerations apply:

- the seriousness of the offence to which the information relates, including the potential of serious injury or death to a person/s;
- the immanency of the threat to which the information relates;
- the likelihood of investigators obtaining the same information through other, less intrusive, investigatory or intelligence methods;
- the potential to obtain the information from another human source who is not a category 1 – 4 human source;

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- the disclosure obligation if the HSEC were to approve the use of a human source and information was obtained that was subject to a legal obligation of privilege or confidentiality;
- the impact on the human rights of any individuals or the community if the information is utilised or not utilised;
- legal advice obtained on the use of the potential human source and the use of any information obtain from the human source that is subject to a legal obligation of privilege or confidentiality;
- any other legal or ethical considerations the HSEC considers relevant;
- the conditions that should apply to the Acknowledgment of Responsibilities (AOR) to ensure that information which is subject to legal obligations of privilege or confidentiality is not obtained;
- the specific purpose and length of time for which any approval will apply;
- the review time period for any approach or registration approval;
- how the risk to the safety of the potential human source will be mitigated;
- the potential for reputational damage to Victoria Police by entering a human source relationship with the person;
- any other specific conditions that should apply to the approach or registration.

<b>13.</b>	<b>Intention to obtain information subject to a legal obligation of privilege or confidentiality</b>
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In accordance with section 8.6 of the VPM Human Sources, the HSEC may consider an application to approach or register a human source where there is an intention to obtain information subject to legal obligations of privilege or confidentiality.

If the HSEC approve the approach or registration, then the matter must be progressed to the Deputy Commissioner, Specialist Operations for a final decision.

Any proposed approach and/or registration of a human source for the purpose of obtaining information subject to legal obligations of privilege or confidentiality is not otherwise permissible.

<b>14.</b>	<b>REPORTING</b>
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Where the HSEC approves the registration of a Category 1 – 4 human source, then the following applies:

- a report must be tabled at each monthly meeting of the HSEC detailing the progress of the human source relationship (including at the point of deactivation), including:

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## HUMAN SOURCE ETHICS COMMITTEE

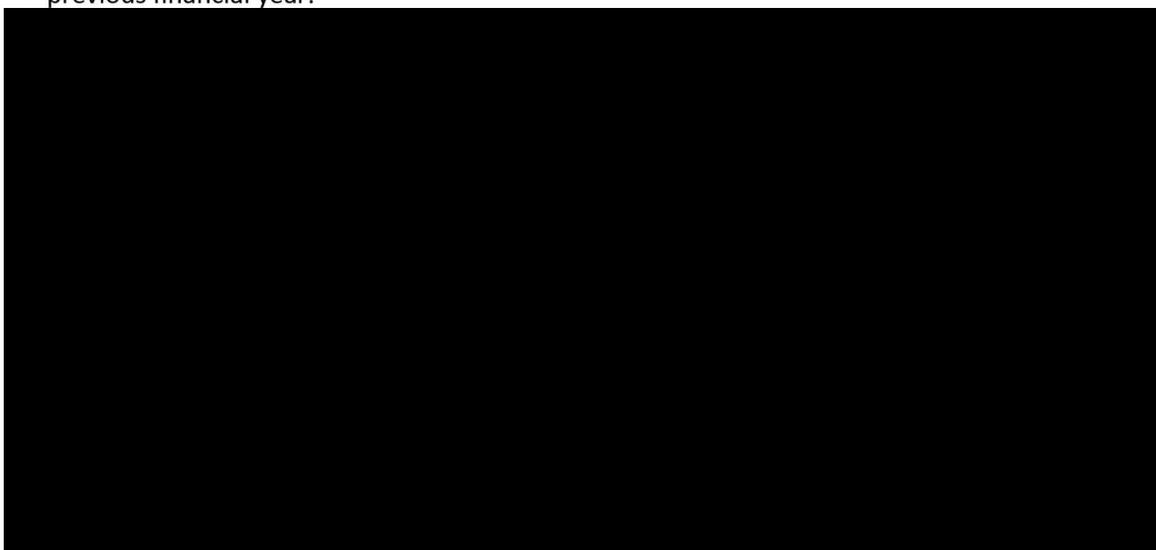


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- whether the specific purpose has been achieved
- whether the human source has complied with their AOR
- any change in risk assessment
- whether any information that is likely to be subject to an obligation of privilege or confidentiality has been obtained
- whether any specific conditions set by the HSEC have been complied with

By 1 August each year, the HSEC must send a report to the Chief Commissioner, via the Deputy Commissioner, Specialist Operations; detailing the following information relating to the previous financial year:



#### 15. REVIEW

The Terms of Reference will be the subject of annual review at the first meeting post 1 July of each year.

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