

Executive
11 February 2021

Title: Annual Review of Regulation of Investigatory Powers Act (RIPA) Policy

Lead Officer: Richard Barr

Portfolio Holders: Councillor Day

Public report / Confidential report: No

Wards of the District directly affected: Not applicable

Contrary to the policy framework: No

Contrary to the budgetary framework: No

Key Decision: No

Included within the Forward Plan: Yes

Equality Impact Assessment Undertaken: Not applicable

Consultation & Community Engagement: See list below

Final Decision: Yes.

Checked for Accessibility: Yes

Officer/Councillor Approval

Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	18 Jan 2021	Chris Elliott/Andrew Jones
Head of Service	18 Jan 2021	Mike Snow
CMT	18 Jan 2021	Chris Elliott/Andrew Jones/Bill Hunt
Section 151 Officer	18 Jan 2021	Mike Snow
Monitoring Officer	18 Jan 2021	Andrew Jones
Finance	18 Jan 2021	Mike Snow
Portfolio Holder(s)	19 Jan 2021	Councillor Hales

1 **Summary**

- 1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) provides the circumstances in which a local authority may use surveillance techniques in order to prevent and detect crime. Each local authority should have a policy in place, which sets out the circumstances in which these powers may be used and the procedure to be followed.

2 **Recommendation**

- 2.1 That Executive should approve the Council's The Regulation of Investigatory Powers Policy.

3 **Reason for the Recommendation**

- 3.1 The Home Office's Code of Practice on Covert Surveillance and Property Interference provides guidance on the use by public authorities of Part II of the Regulation of Investigatory Powers Act ("the 2000 Act") to authorise covert surveillance that is likely to result in the obtaining of private information about a person.
- 3.2 Paragraph 4.47 of the Code states that: "Elected members of a local authority should review the authority's use of the 1997 Act and the 2000 Act and set the policy at least once a year."

4 **Policy Framework**

4.1 **Fit for the Future (FFF)**

- 4.1.1 The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. To that end amongst other things the FFF Strategy contains several Key projects.
- 4.1.2 The FFF Strategy has 3 strands, People, Services and Money, and each has an external and internal element to it, the details of which can be found [on the Council's website](#). The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

4.1 **FFF Strands**

4.1.1 **External impacts of proposal(s)**

People - Health, Homes, Communities

Services - Green, Clean, Safe

Money- Infrastructure, Enterprise, Employment

The policy will help to ensure employees within the Council do not breach Article 8 of the Human Rights Act.

4.1.2 **Internal impacts of the proposal(s)**

People - Effective Staff

Services - Maintain or Improve Services

Money - Firm Financial Footing over the Longer Term

Ensuring that there is an approved policy in place will help to ensure that staff comply with legislation when undertaking their duties. RIPA provides the Council with certain powers which could be useful in the prevention and detection of crime, therefore protecting the Council's financial resources.

4.2 **Supporting Strategies**

4.2.1 Each strand of the FFF Strategy has several supporting strategies but description of these is not relevant for the purposes of this report.

4.3 **Changes to Existing Policies**

Not applicable.

4.4 **Impact Assessments**

Not applicable.

5 **Budgetary Framework**

5.1 There are no budgetary implications relating to the approval of the policy.

6 **Risks**

6.1 Failure to comply with RIPA legislation could result in a breach of The Human Rights Act.

7 **Alternative Options Considered**

7.1 This report is not concerned with recommending a particular option in preference to others so this section is not applicable.

8 **Background**

8.1 The Investigatory Powers Commission (IPCO) is responsible for providing independent oversight of the use of investigatory powers by public bodies which are undertaken under the RIPA and is responsible for undertaking inspections to ensure compliance.

8.2 The Home Office's Code of Practice on Covert Surveillance and Property Interference provides guidance on the use by public authorities of Part II of the Regulation of Investigatory Powers Act ("the 2000 Act") to authorise covert surveillance that is likely to result in the obtaining of private information about a person. The Code provides guidance on when an application should be made for an authorisation under the 2000 Act and the

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procedures that must be followed before activity takes place. The Code also provides guidance on the handling of any information obtained by surveillance activity.

- 8.3 The Code also applies to the entry on, or interference with, property or with wireless telegraphy by public authorities.
- 8.4 The Code is issued pursuant to Section 71 of the 2000 Act and is intended for use primarily by the public authorities able to authorise activity under the 2000 Act, the Intelligence Services Act 1994 ("the 1994 Act") and Part III of the Police Act 1997 ("the 1997 Act").
- 8.5 The 2000 Act provides that all codes of practice issued under the Act are admissible as evidence in criminal and civil proceedings. Any court or tribunal considering such proceedings may take the provisions of the codes of practice into account.
- 8.6 Paragraph 4.47 of the Code states that: "Elected members of a local authority should review the authority's use of the 1997 Act and the 2000 Act and set the policy at least once a year. They should also consider internal reports on use of the 1997 Act and the 2000 Act on a regular basis to ensure that it is being used consistently with the local authority's policy and that the policy remains fit for purpose." Although RIPA has not been used by the Council for a number of years the Council has certain powers which may be applied should it be necessary.
- 8.7 The policy was updated two years ago to incorporate legislative changes and to provide more specific details in respect of the Court process for the approval of RIPA requests by a Justice of the Peace. An appendix was also added to the policy, covering the use of social media and setting out the circumstances when a RIPA authorisation would be required. Although the Policy does not require updating this year it needs to be approved by Members, as explained above.