

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

Lead Officer: Richard Barr

Portfolio Holder: Councillor Day

Wards of the District directly affected: None directly impacted

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## Summary

The Regulation of Investigatory Powers Act 2000 (RIPA) provides the circumstances in which a local authority may use surveillance techniques 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.

## Recommendations

- 1 That Cabinet should review and then, if satisfied, approve the Council's Regulation of Investigatory Powers Policy.
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## 1 Background

- 1.1 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.
- 1.2 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 procedures that must be followed before activity takes place. The Code also provides guidance on the handling of any information obtained by surveillance activity.
- 1.3 The Code also applies to the entry on, or interference with, property or with wireless telegraphy by public authorities.
- 1.4 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").
- 1.5 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.

- 1.6 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.
- 1.7 The Council's RIPA Policy is set out as Appendix 1. The Policy also requires a sub-policy covering the use of social media and setting out the circumstances when a RIPA authorisation would be required. This is set out as Appendix 1.1.
- 1.8 The RIPA Policy has been updated since Members last saw it, a year ago. This followed an inspection during the year by the Investigatory Powers Commissioner of the Council's RIPA arrangements, including its RIPA Policy and its RIPA procedures. The report that followed concluded that "Your organisation appears to be in good hands through a knowledgeable RIPA Coordinator and a well-informed Senior Responsible Officer."
- 1.9 A small number of recommendations were identified, all of which have now been actioned. Most of these required slight updates to the RIPA Policy while one required relevant staff - including the Chief Executive as the RIPA Authorising Officer and the Deputy Chief Executive as the Senior Responsible Officer - receiving awareness training on a refresher basis.
- 1.10 The Commissioner's report is included as an appendix to this Cabinet report. Also set out as an appendix is an action plan in the form of a two-columnar table that summarises the recommendations arising from the inspection and confirms the actions that have been taken to address them.

## **2 Alternative Options available to Committee**

- 2.1 The report is not based on 'project appraisal' so this section is not applicable.

## **3 Consultation and Members' comments**

- 3.1 Include any comments received in response to the consultation on the report.  
No comments received.

## **4 Implications of the proposal**

### **4.1 Legal/Human Rights Implications**

- 4.1.1 Include a summary of the legal or human rights implications of the proposal.  
Not applicable.

### **4.2 Financial**

- 4.2.1 Include a summary of the financial implications of the proposal.  
Not applicable.

### **4.3 Council Plan**

#### **4.3.1 External Impacts**

##### **People - Health, Homes, Communities**

**Services - Green, Clean, Safe**  
**Money- Infrastructure, Enterprise, Employment**

Although there are no direct policy implications, compliance with regulatory frameworks is an essential part of corporate governance and the Policy Framework and Council policies will reflect this. The policy will help to ensure employees within the Council do not breach Article 8 of the Human Rights Act.

**4.3.2 Internal Impacts**

**People - Effective Staff**  
**Services - Maintain or Improve Services**  
**Money - Firm Financial Footing over the Longer Term**

Having 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.

**4.4 Environmental/Climate Change Implications**

4.4.1 None identified.

**4.5 Analysis of the effects on Equality**

4.5.1 An effective policy in this field will help the Council achieve its Equality objectives and obligations.

**4.6 Data Protection**

4.6.1 An effective policy in this field will help the Council achieve its data protection objectives and obligations.

**4.7 Health and Wellbeing**

4.7.1 An effective policy framework can help the Council achieve its health and wellbeing objectives and obligations.

**5 Risk Assessment**

5.1 Clearly there are governance-related risks associated with weak regulatory compliance, but the policy will help to mitigate/address these.

**6 Conclusion/Reasons for the Recommendation**

6.1 The report sets out the Council's Regulation of Investigatory Powers Act (RIPA) Policy.

6.2 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. 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." (The "2000 Act" authorises covert surveillance that is likely to result in the obtaining of private information about a person.)

**Background papers:**

Please provide a list of any papers which you have referred to in compiling this report

and are not published documents. This is a legal requirement.

You must also supply these when submitting the report.

All Papers referred to in this report are published documents.

**Supporting documents:**

Home Office's Code of Practice on Covert Surveillance and Property Interference.

## Report Information Sheet

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|---|---|---|
| <b>Committee/Date</b>   | Cabinet – 10 March 2022   |   |
| <b>Title of report</b>  | Annual Review of Regulation of Investigatory Powers Act (RIPA) Policy |   |
| <b>Consultations undertaken</b>   |   |   |
| <b>Consultee<br/>*required</b>  | <b>Date</b>   | <b>Details of consultation<br/>/comments received</b> |
| <b>Ward Member(s)</b>   |   |   |
| <b>WDC Portfolio Holder</b>   | 28/01/22  |   |
| <b>Financial Services</b>   | 27/01/22  |   |
| <b>Legal Services</b>   |   |   |
| <b>Other Services</b>   |   |   |
| <b>Chief Executive</b>  | 27/01/22  |   |
| <b>Head of Service</b>  | 27/01/22  |   |
| <b>Section 151 Officer</b>  | 27/01/22  |   |
| <b>Monitoring Officer</b>   |   |   |
| <b>CMT (WDC)</b>  | 27/02/22  |   |
| <b>Leadership Co-ordination<br/>Group (WDC)</b>   | 27/01/22  |   |
| <b>Other organisations</b>  |   |   |
| <b>Final decision by this<br/>Committee or rec to<br/>another Cttee/Council?</b>                    |   | The former.   |
| <b>Contrary to Policy/Budget<br/>framework</b>  |   | No  |
| <b>Does this report contain<br/>exempt info/Confidential?<br/>If so, which paragraph(s)?</b>        |   | No  |
| <b>Does this report relate to a<br/>key decision (referred to in<br/>the Cabinet Forward Plan)?</b> |   | No  |
| <b>Accessibility Checked?</b>   |   | File/Info/Inspect Document/Check<br>Accessibility     |