

## **Title of report: Approval of the Regulation of Investigatory Powers Act 2000 (RIPA) Policy and Procedures**

**Decision maker: Cabinet member finance, corporate services and planning**

**Decision date: Wednesday 21 July 2021**

**Report by: Solicitor to the council**

### **Classification**

Open

### **Decision type**

Key

This is a key decision because it is likely to be significant having regard to the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

### **Wards affected**

(All Wards);

### **Purpose**

The purpose of this report is to seek approval of the Regulation of Investigatory Powers Act 2000 (RIPA) policy which replaces the previous policy.

RIPA provides the legal framework for a local authority to conduct covert surveillance techniques. The legislation ensures that any surveillance activity conducted by the council is legal, proportionate and necessary.

## **Recommendation(s)**

**That:**

**a) the Regulation of Investigatory Powers Act 2000 (RIPA) Policy is approved**

## **Alternative options**

1. There is a legal requirement for a public authority to hold an updated policy.

## **Key considerations**

2. As a public authority who has enforcement powers, the council is able to carry out surveillance operations, for certain criminal offences, without breaching the Human Rights Act 1998.
3. The previous policy last came to cabinet for approval in 2014 ([report](#)) and was then updated in 2018.
4. In January to March 2021 the council received correspondence from the Investigatory Powers Commissioners Office (IPCO) inspecting the use of covert surveillance and covert human intelligence sources (CHIS) in accordance with RIPA.
5. The inspector provided comment on the current policy and these have been incorporated into the revised policy in appendix 1.
6. The amendments to the current policy from the previous policy are as follows;
  - Updated links to guidance and forms.
  - Updated legislation
  - Changes to Directorate names
  - Inclusion of Single point of contact for communications data requests
  - Time limits added
  - Section regarding Review, Renewals, Cancellation and Data Retention added
  - Responsibilities of officers amended and allocated to different officer posts
  - New Chis guidance added
  - New Social media guidance added
  - Process flow chart added

7. Once the policy is adopted, relevant staff will be trained and an annual review of the operation of the policy in practice will be undertaken and reported to cabinet with any necessary changes to the policy.

## **Community Impact**

8. Local authorities have a wide range of functions and are responsible for enforcing 1,000 separate Acts of Parliament and secondary legislation. Regulatory functions include consumer protection, animal health and welfare, fire safety and child protection. Effective and efficient enforcement protects the most vulnerable in our communities and acts as an enabler for economic progress.

## **Environmental Impact**

9. None

## **Equality duty**

10. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
11. The Equality Act 2010 established a positive obligation on local authorities to promote equality and to reduce discrimination in relation to any of the nine 'protected characteristics' (age; disability; gender reassignment; pregnancy and maternity; marriage and civil partnership; race; religion or belief; sex; and sexual orientation). In particular, the council must have 'due regard' to the public sector equality duty when taking any decisions on service changes.
  12. This report is a review and update to the policy and we do not believe that it will have any negative impact on the council in carrying out its equality duty.

## **Resource implications**

13. There are no resource implications as a result of the recommendations provided in the report.

## **Legal implications**

14. Part 11 of the Regulation of Investigatory Powers Act 2000(RIPA) places covert surveillance on a statutory basis enabling public authorities identified in the legislation to carry out surveillance operations without breaching the Human Rights Act 1998.
15. A number of statutory instruments and codes of practice published by the Home Office govern the operation of RIPA.
16. Organisations using RIPA are subject to regular inspection by the IPCO.

## **Risk management**

17. Failure to comply with legislation places the council at risk of legal challenge.
18. Approval of the new policy and compliance with the policy and legislation ensures that the risk to the council is low.
19. A review of the policy will be completed on an annual basis.

## **Consultees**

20. Investigatory Powers Commissioner's Office (IPCO).

## **Appendices**

Appendix 1 - Regulation of Investigatory Powers Act 2000 (RIPA) Policy and Procedures

## **Background papers**

None.

**Please include a glossary of terms, abbreviations and acronyms used in this report.**

CHIS - Covert Human Intelligence Sources

RIPA - Regulation of Investigatory Powers Act

IPCO - Investigatory Powers Commissioner's Office