

Report To:	CABINET
Date:	13 DECEMBER 2022
Heading:	REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) - UPDATE
Executive Lead Member:	COUNCILLOR JASON ZADROZNY – LEADER OF THE COUNCIL
Ward/s:	N/A
Key Decision:	NO
Subject to Call-In:	YES

Purpose of Report

This report is to update Cabinet on the use of the Council's Regulation of Investigatory Powers Act (RIPA) Policy in the past 3 years and to approve the amendments needed to the Policy.

Recommendation(s)

Cabinet is asked to:

- 1. Note that the Council has not authorised any Directed Surveillance in the past 3 years pursuant to the RIPA powers;**
- 2. Adopt the minor amendments to the Policy;**
- 3. Note the training that is being undertaken following the Investigatory Powers Commissioner's Office (IPCO) inspection in March 2022; and**
- 4. Note the progress made in respect of the action plan put in place following the IPCO inspection earlier this year.**

Reasons for Recommendation(s)

Due to the impact of the Covid pandemic the Policy has not been presented to Cabinet since 2019. A brief update report was presented to Cabinet in June 2022. The current Code of Practice and Council Policy requires that Members are updated on RIPA authorisations on an annual basis. This report complies with that requirement.

The Policy should also be reviewed regularly to ensure it remains up to date and fit for purpose. The Policy has been reviewed and amended following the Investigatory Powers Commissioner's Office (IPCO) inspection in March 2022 to reflect legislative changes and recommendations following the inspection since the Policy was last adopted. Proposed amendments to the Policy comply with that requirement.

Alternative Options Considered

To not report to Members an update which could put the authority at risk of challenge for breach of policy.

To not adopt the changes to the Policy which goes against specific recommendations from the IPCO, and would mean that any powers utilised under the Policy could be subject to challenge.

Detailed Information

Regulation of Investigatory Powers Act 2000 (RIPA) – Update

The Regulation of Investigatory Powers Act 2000 (RIPA) sets out the legal framework for the conducting of surveillance by public authorities in the course of criminal investigations. RIPA ensures compliance with the Human Rights Act 1998, in particular the right to respect for private and family life. This right is qualified where interference in these rights is necessary and proportionate and carried out in accordance with the law.

The Council can only authorise directed surveillance under RIPA where the matter involves a criminal offence punishable by a custodial sentence of six months or more (e.g. serious criminal damage, dangerous waste dumping, health and safety offences, serious or serial benefit fraud) or is related to underage sale of alcohol and tobacco. The Council cannot authorise directed surveillance for less serious offences such as littering and dog control and cannot authorise intrusive surveillance which takes place either in a residential premises or in any private vehicle. Authorisation is not required however in a case of immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation to be sought or for general observation activities in a crime hotspot area.

The Policy:

1. The RIPA Policy was last amended in November 2019.
2. The IPCO carried out a desktop RIPA inspection in March 2022 and made a recommendation in relation to changes to the Policy as follows: The Policy has been updated in relation to procedures for the retention and destruction of all data and documents obtained as a result of covert activity.
3. Minor changes to the Policy have been made to remove references to the Shared Legal Service and to update details of authorising officers.
4. Members are asked to note and adopt the changes within the Policy.

Update on the Use of RIPA:

1. If the Council is required to carry out covert surveillance in the course of its enforcement work, it must comply with the Regulation of Investigatory Powers Act 2000 and related Codes of Practice.
2. The Council has a Policy in place which sets out a process for ensuring covert surveillance activity is carried out in accordance with the law. In accordance with the Policy and the Code of Practice, the Cabinet must receive an annual report.
3. In the past 3 years no covert surveillance was authorised.
4. Members are asked to note the update.

Training:

1. In March 2022, IPCO also noted that formal training for relevant staff has been impacted by the pandemic and assurances were given that training would commence later in the year.
2. The Service Manager, Legal Services, and Principal Lawyer have attended training and subsequently provided training on RIPA to all staff in Legal Services on 3 November 2022, to CLT members (Authorising Officers) on 14 November 2022 and to other relevant officers on 21 and 23 November 2022 (a mop up training session for those who could not attend these dates is planned for December 2022).
3. Members are asked to note the update.

Action Plan Update

1. The action plan put in place following the IPCO inspection earlier this year was presented to Cabinet in June. The updated action plan showing progress is appended to the report for Members to note.

Implications

Corporate Plan:

Safer and Stronger: the Council's Vision by 2023 is to ensure the foundations for a good quality of life are in place; reducing crime and anti-social behaviour.

Legal:

All legal issues are outlined within the report and detailed in the policy. [RLD 23/11/2022]

Finance: There are no direct financial implications arising from this report. [PH 17/11/2022].

Budget Area	Implication
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General Fund – Revenue Budget	N/A
General Fund – Capital Programme	N/A
Housing Revenue Account – Revenue Budget	N/A
Housing Revenue Account – Capital Programme	N/A

Risk:

Risk	Mitigation
No risks associated with the recommendations in this report.	The Policy is in place to ensure the Council complies with the law.

Human Resources:

As per the report, training has been undertaken by relevant employees. [KH 02/12/2022]

Environmental/Sustainability

There are no environmental or sustainability implications relating to the report.

Equalities:

Implications are considered in the policy, in particular, in relation to article 8 of the Human Rights Act.

Other Implications:

None

Reason(s) for Urgency

N/A

Reason(s) for Exemption

N/A

Background Papers

Updated RIPA Policy attached

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