

Report To:	CABINET
Date:	29 JANUARY 2024
Heading:	REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) - UPDATE
Portfolio Holder:	COUNCILLOR VICKY HESLOP – EXECUTIVE LEAD MEMBER FOR GOVERNANCE
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.

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. Note and adopt the minor amendments to the Policy;**
- 3. Note that the necessary RIPA training was undertaken in Autumn 2022 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 in March 2022.**

Reasons for Recommendation(s)

An update report was presented to Cabinet in December 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 was reviewed and amended in December 2022 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. Further minor amendments to the Policy are proposed to reflect changes in job titles for authorising officers (Executive Directors) and also for the Assistant Director - Legal.

Alternative Options Considered

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

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.

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.

The Policy:

1. The RIPA Policy was last reviewed and amended in December 2022 following recommendations made by IPCO after they carried out a desktop RIPA inspection in March 2022. In particular, the Policy was updated in relation to procedures for the retention and destruction of all data and documents obtained as a result of covert activity.

2. Minor changes to the Policy are now proposed to update details of authorising officers (Executive Directors) and to update details for the Assistant Director - Legal.
3. Members are asked to note and adopt the proposed changes within the Policy.

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 Assistant Director - Legal and Principal Lawyer 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 on these dates took place on 1 December 2022.
3. Members are asked to note that the necessary training has taken place.

Action Plan Update

1. The action plan put in place following the IPCO inspection was presented to Cabinet in June 2022 and December 2022, an updated action plan showing progress is appended to the report.
2. Members are asked to note the updated action plan.

Implications

Corporate Plan:

Safer and Stronger: We will work with our partners to ensure people feel safe and are safe by tackling crime and antisocial behaviour (ASB). Our vision is to provide a safer Ashfield where residents, businesses and visitors feel safer in the District.

Legal:

All legal issues are outlined within the report and detailed in the policy. [RLD 05/01/2024]

Finance: There are no direct financial implications arising from this report. [PH 09/01/2024].

Budget Area	Implication
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
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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:

There are no direct HR implications contained within the report. [KH 08/01/2024]

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

RIPA Policy attached

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