

**COMMUNITY POLICY DEVELOPMENT GROUP
23 MARCH 2021**

**ANNUAL REVIEW OF THE REGULATION OF INVESTIGATORY POWERS ACT
(RIPA) POLICY**

Cabinet Member(s): Councillor Dennis Knowles, Cabinet Member for Community Well-being

Responsible Officer: Kathryn Tebbey, Head of Legal Services (Monitoring Officer)

Reason for Report: to carry out an annual review of the Council's RIPA policy

RECOMMENDATION: that Community PDG recommends to Cabinet that

(a) the revised Regulation of Investigatory Powers Act (RIPA) policy be adopted; and

(b) that delegated authority be given to the Head of Legal Services (Monitoring Officer) to review the designation of the Co-ordinating Officer within the RIPA policy and to make such changes to that designation as she considers appropriate.

Financial Implications: None directly arising from this report.

Legal Implications: The use of RIPA powers is heavily regulated and scrutinised by the Investigatory Powers Commissioner's Office ("IPCO"). The legislation, combined with Codes of Conduct, sets the framework for the use of RIPA powers. Statutory guidance requires the Council to use of RIPA and the RIPA policy annually.

Risk Assessment: There are no risks directly arising from this report. The Council has the necessary policy in place and further training will soon be provided to officers, particularly in relation to the use of social media for investigations.

Equality Impact Assessment: None directly arising from this report, but human rights, including equalities matters, are at the heart of RIPA.

Relationship to Corporate Plan: Part and parcel of a well-managed Council.

Impact on Climate Change: None.

1.0 Background

1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) was put in place to ensure that the use of certain investigatory powers by certain organisations complies with the UK's obligations under the European Convention on Human Rights (ECHR) including Article 8 (the right to privacy). The proper authorisation of certain covert surveillance powers under RIPA ensures that the Council is acting in accordance with such human rights.

1.2 Following criticism of local authorities' use of covert surveillance powers additional safeguards were put in place including:-

- The need to obtain magistrate approval
- Only be used to investigate offences which attract sentences of six months or more or relate to the underage sale of alcohol or tobacco.

2.0 The Council and RIPA in the last 12 months

2.1 Once again the Council has not used its RIPA surveillance powers in the last 12 months. The last time such powers were used dates back to 2014.

2.2 In September and October 2018, the IPCO conducted its 3 year review/inspection of the Council. This was a desktop exercise, rather than physical inspection. The IPCO was pleased with the level of compliance shown. The next inspection, in late 2021, is likely to be a physical inspection of compliance, unless the IPCO revises its approach in response to the pandemic i.e. by only visiting those councils which have made active use of RIPA powers since the last inspection and where they are unable to demonstrate sufficient attention to training. The Monitoring Officer has already spoken to the IPCO and will do so during the summer to see whether there will be an alternative review method for this year.

2.3 Refresher training was commissioned in late 2018 the key Council officers involved in RIPA, particularly at approval/authorisation level. Further training will be organised this year – in part a refresher, but also some specific training about the use of social media in monitoring and investigative activity. Social media as an open source of material is a particular area of focus for the IPCO. The RIPA policy addresses this, but it is important that the intended training transfer this theory into practice. The Monitoring Officer intends to work with the Corporate Manager for Public Health, Regulation and Housing on this.

2.4 The RIPA policy has been reviewed annually in each municipal year and no major changes are proposed this year. However, the policy has been 'tidied up' and given greater clarity in places (Appendix 1). It is this version that the Cabinet will be asked to adopt. The appendices to the policy are forms for administrative use and these are not included for adoption – they may change over time and some flexibility is required.

2.5 It is noted that the Senior Responsible Officer (SRO) is the Monitoring Officer and this will not change. The SRO will review the designation of the Co-ordinating Officer as a solicitor – there may be a case for it to sit elsewhere. Delegated authority is sought to enable that review to take place without needing a referral back to the Community PDG and/or Cabinet.

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Circulation of the Report: Cabinet Member for Community Well-being

List of Background Papers: None.