

25 October 20221**TITLE OF REPORT: Regulation of Investigatory Powers****REPORT OF: Mike Barker - Strategic Director Corporate Services and Governance.**

Purpose of the Report

1. The report seeks approval of the Regulation of Investigatory Powers corporate guidance and procedures which sets out how the Council will comply with the Regulation of Investigatory Powers Act 2000 (RIPA) and the Protection of Freedoms Act 2012.
2. The report also provides Cabinet with an update on recent surveillance activity.

Background

3. The Council will, on occasion, but rarely, need to use covert surveillance in order to carry out its functions effectively. RIPA provides the legal and governance framework under which authorised bodies (such as local authorities) are able to carry out surveillance activities and access communications data which would otherwise not be lawful because of the impact on individual resident's human rights.
4. Examples of enforcement activities which may require the use of RIPA include trading standards enforcement activities against rogue traders and loan sharks, community safety, fraud investigations and child protection.
5. RIPA applications must be fully assessed through a prescribed process which involves authorisation by one of the specified authorising officers. The resulting authorised RIPA application must then be presented to a Magistrate for judicial approval.
6. National guidance recommends that elected members have oversight over the Council's use of RIPA. Following advice from the Investigatory Powers Commissioners Office, it is recommended that this should take place at least once a year and the intention is that it becomes part of the planned work of the Audit and Standards Committee.
7. The proposed procedures document builds upon previous procedures adopted by the Council and takes into account improvements in approach recommended since the Council was last inspected by the Investigatory Powers Commissioners Office.
8. The Council very rarely makes use of the powers available under RIPA and no authorisations have been applied for or granted in the last year.

9. Whilst the formal use of RIPA is extremely limited, it is still essential that staff have ongoing training and awareness raising to ensure that they do not become unfamiliar with the requirements of RIPA and the Protection of Freedoms Act 2012. This is to ensure that where the Council undertake activities which ought to be authorised that they only happen with the correct protections properly in place and that the investigative opportunities afforded by use of the RIPA powers are not missed.

Recommendations

It is recommended that Cabinet approves the new Regulation of Investigatory Powers corporate guidance and procedures;

For the following reason(s)

To ensure

- (i) compliance with relevant legislation and guidance and that the Council has an up to date and accurate procedures;
- (ii) that guidance is available which will assist the Council to balance the needs of undertaking work to safeguard individuals and our communities whilst ensuring that it does not unnecessarily infringe the human rights of individuals.

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APPENDIX 1

Policy Context

1. The Regulation of Investigatory Powers Act 2000 sets out the regulatory framework for the use of covert surveillance techniques by public authorities.
2. National guidance states that elected members of a local authority should review the authority's use of the RIPA. The Investigatory Powers Commissioner recommends the procedures are reviewed at least once a year.

Alternative Options

3. None.

Implications of Recommended Option

4. Resources:

- a) **Financial Implications** – There are no financial implications arising directly from this report.
- b) **Human Resources Implications** –The implementation of the updated policy will require briefing sessions to be delivered to employees.

The Council has a responsibility under the Health & Safety at Work Act 1974 to ensure, as far as is reasonably practicable, that adequate health and safety provisions are in place. The report outlines that enforcement activities which may require the use of RIPA include trading standards enforcement activities against rogue traders and loan sharks; community safety; fraud investigations; and child protection, all of which are subject to health and safety risk assessments and controls managed within the relevant group with appropriate risk assessments and safe systems of work to be followed.

- c) **Property Implications** -There are no property implications arising directly from this report.

5. **Risk Management Implication** - Failure to comply with the requirements RIPA could lead to intervention or sanction by the Investigatory Powers Commissioner.
6. **Equality and Diversity Implications** - the procedures are accessible to all residents.
7. **Crime and Disorder Implications** – The Council is required by law to set a policy in respect of the Council's use of RIPA and its use of investigation practices in its activities.
8. **Health Implications** - None
9. **Climate Emergency and Sustainability Implications** - None

10. **Human Rights Implications** – The Regulation of Investigatory Powers corporate guidance and procedures addresses the Council's ongoing compliance with the protections of individual residents human rights.
11. **Ward Implications** - the updated procedures apply in all wards.