

<b>Report To:</b>	<b>CABINET</b>	<b>Date:</b>	<b>25 NOVEMBER 2019</b>
<b>Heading:</b>	<b>REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) - UPDATE</b>		
<b>Portfolio Holder:</b>	<b>COUNCILLOR MELANIE DARRINGTON – PORTFOLIO HOLDER FOR CORPORATE COMMUNICATIONS, GOVERNANCE AND CROSS PORTFOLIO SUPPORT</b>		
<b>Ward/s:</b>	<b>N/A</b>		
<b>Key Decision:</b>	<b>NO</b>		
<b>Subject to Call-In:</b>	<b>YES</b>		

### **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 12 months and to approve the amendments needed to the policy.

### **Recommendation(s)**

**Cabinet is asked to note that the Council has authorised one Directed Surveillance in the past 12 months pursuant to the RIPA powers.**

**Cabinet is asked to note and adopt the minor amendments to the Policy following the Investigatory Powers Commissioner's Office (IPCO) inspection in March 2019.**

### **Reasons for Recommendation(s)**

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 IPCO inspection in March 2019 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**

*(with reasons why not adopted)*

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 recent legislative changes and 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 – Annual Update**

#### **The Policy:**

1. The RIPA policy was last amended in January 2019.
2. The IPCO carried out a desktop RIPA inspection in March 2019 and made some recommendations in relation to changes to the policy. The changes are as follows:
  - a) The policy has been updated to substitute all references to the Office of the Surveillance Commissioner (OSC) with IPCO.
  - b) The duration of a juvenile Covert Human Intelligence Source (CHIS) at paragraph 7.7 has been amended to four months in line with a recent statutory instrument. (SI/2018/715)
  - c) The policy has been updated with regards to both Covert Surveillance and Property Interference and Covert Human Intelligence Source Codes of Practice in relation to online covert activity.
  - d) Paragraph 8.1.4 of the policy has been updated to include where legally privileged information has been obtained.
  - e) Paragraph 12.3 has been updated to include three additional elements of information required to be held in the centrally retrievable record.
3. 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 12 months **one** covert surveillance was authorised on 13<sup>th</sup> December 2018. This related to the use of two CCTV cameras in Kirkby for the purposes of detecting criminal activity and anti-social behaviour. The authorisation was approved by the Magistrates' Court on 20 December 2018 and cancelled on 19 March 2019. There was no enforcement action taken as a direct result of this covert surveillance operation. The recent inspection confirmed

that this authorisation was completed to a very high standard with the statutory considerations of necessity, proportionality and collateral intrusion articulated in an exemplary fashion.

4. Members are asked to note the update.

## **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.

### **Finance:**

<b>Budget Area</b>	<b>Implication</b>
General Fund – Revenue Budget	None
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

### **Risk:**

<b>Risk</b>	<b>Mitigation</b>
No risks associated with the recommendations in this report.	The policy is in place to ensure the Council complies with the law.

### **Human Resources:**

It is recommended that all officers whose duties are linked to surveillance are provided with adequate training to be refreshed periodically to ensure they fully understand the RIPA policy and how it applies to their work. Training will be refreshed and carried out on a rolling programme to be made available on the intranet.

### **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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