


<b>Report To:</b>	<b>EXECUTIVE CABINET</b>
<b>Date:</b>	14 December 2022
<b>Reporting Officer:</b>	Councillor Denise Ward – Executive Member Suzanne Antrobus, Head of Legal Services
<b>Subject:</b>	<b>REVIEW OF REGULATION OF INVESTIGATORY POWERS POLICY AND PROCEDURE (RIPA)</b>
<b>Report Summary:</b>	<p>This report is brought to Members for a formal review of the Council’s Policy in relation to the Regulation of Investigatory Powers legislation and guidance. The Policy was last amended on 17 April 2019.</p> <p>The Council recently underwent a recent desktop inspection undertaken by the Investigatory Powers Commissioner’s Office [‘IPCO’] on 28 March 2022. The revised RIPA policy incorporates the recommendations from the inspection.</p> <p>Members and Officers should be alert to all activities which involve investigation of any kind, carried out by or on behalf of council officers in the course of their work, and its potential to attract the use of any form of surveillance</p>
<b>Recommendations:</b>	<ul style="list-style-type: none"> <li>(i) To consider the attached revised policy and recommend it to Cabinet with any other changes or otherwise as they consider necessary; and</li> <li>(ii) Agree that Officers across the Council continue to engage in a corporate programme of refresher training led by the Director of Governance and Pensions in relation to the Regulation of Investigatory Powers legislation and guidance.</li> </ul>
<b>Policy Implications:</b>	All enforcement action is taken within the context of Council and Crime and Disorder Reduction Partnership policies. The policy will also need to be added to the Information Governance Framework and disseminated across the Council.
<b>Financial Implications:</b> <b>(Authorised by the Chief Finance Officer)</b>	Not to comply with the RIPA legislation could have financial implications should court proceedings be unsuccessful or civil claims be brought against the Council as a result of non-compliance.
<b>Legal Implications:</b> <b>(Authorised by the Borough Solicitor)</b>	<p>Non-compliance with the RIPA legislation could cause court proceedings to be compromised, human rights to be breached, and reputational damage to the Council.</p> <p>Member should note this legislation applies to all types of surveillance and investigations carried out on behalf of the Council.</p>
<b>Risk Management:</b>	Risk assessments in relation to enforcement activity have been carried out and all recommendations form part of current reporting practices.
<b>Background Information:</b>	The background papers can be obtained from the author of the report, Margaret Warner, Principal Solicitor, General Law by

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## 1. INTRODUCTION

- 1.1 The Council is required to review its policy in relation to surveillance on a regular basis, and ensure that all officers engaged in investigatory work understand the requirements of the Regulation of Investigatory Powers Act 2000 (RIPA).
- 1.2 The draft current policy was revised on 17 April 2019, which was subsequently reviewed by, the Investigatory Powers Commissioners Office (IPCO) Inspector, on 13 June 2019. There were no formal recommendations arising from this inspection. This was the last full RIPA inspection.
- 1.3 Members will recall that the Investigatory Powers Commissioners Office is a non departmental public body (NDPD) which was established to oversee the authorisation and use of covert tactics by statutorily empowered public authorities, of which the Council is one. The IPCO team supports the Investigatory Powers Commissioner and Judicial Commissioners in fulfilling their duties under the Investigatory Powers Act 2016. Funding for the IPCO is provided by the Home Secretary. However, the IPCO carries out its functions independently of the Government and is not part of the Home Office.
- 1.4 Inspections are usually every three years. Since the last RIPA inspection, the Council approved the 2019 Policy and the Council has continued to review, provide training and monitor any RIPA related activity undertaken by the authority. There has been no requests for RIPA authorisation at the Council since 2013.

## 2. IPCO DESKTOP INSPECTION. 28 MARCH 2022

- 2.1 On 4 February 2022, the Monitoring Officer received notification from the IPCO, that our authority was due for its next programmed inspection of the use of covert surveillance in accordance with the provisions of the Regulation of Investigatory Powers Act 2000. The following information and documentation was required to be sent in advance to the Inspector:
  - If any use of RIPA has been made since the last inspection (CHIS/DSA) the exact numbers and if possible (redacted names/premises are fine) a small selection of the RIPA applications/authorisations/cancellations.
  - Details of any training undertaken since the last inspection
  - A copy of your RIPA policy
  - Details of any data assurance measures/training in place to comply with the safeguarding chapters of the codes of practice
- 2.2 On 28 March 2022, a video and desktop-based inspection took place following the Inspector's examination of the relevant documentation, thereby obviating the need for a visit by a Surveillance Inspector.
- 2.3 On 29 March 2022, the IPCO wrote to the Chief Executive with details of the Inspector's findings and in particular: *The information provided has demonstrated a level of compliance which removes, for the present, the requirement for a physical inspection. Your authority has been found to be in a good place. Your RIPA policy, as was the case in 2019, was found to be well formed. It was noted that your policy is due to be reviewed, imminently. This is timely, as my Inspector has identified that whilst our RIPA policy contained references to the keeping and management of records (Section D), the policy should also carry details regarding the data safeguards contained within each Code of Practice, and to advise the reader as to the minimum standards required; who will undertake the required review of covertly obtained material; and the time period within which this review will take place, to determine if the material gathered will be retained or destroyed.*

- 2.4 The proposed revised Policy is attached at **Appendix 1** to this report. It builds on the Policy previously revised in 2019 and contains information within the above recommendation at Section D, pages 20-22, within the Policy in red. Further changes in red, within the revised Policy follow the updated guidance contained in the IPCO newsletter dated October 2022.
- 2.5 Officers within Directorates should therefore continue to keep under review how investigations are carried out in relation to their specific disciplines and ensure their officers are complying with the requirements around surveillance.
- 2.6 Whilst Elected Members of a local authority should review their authority's use of the RIPA and its policy at least once a year it should be noted that there have however been no requests for authorisation here to use the powers under the RIPA since 2013.

### **3 RECOMMENDATION**

- 3.1 As set out on the front of the report.