
Subject:	REGULATION OF INVESTIGATORY POWERS ACT POLICY
Meeting and Date:	Cabinet – 5 November 2018
Report of:	David Randall, Director of Governance
Portfolio Holder:	Councillor Mike Conolly, Portfolio Holder for Corporate Resources and Performance
Decision Type:	Non-Key Decision
Classification:	Unrestricted

Purpose of the report:	The policy for covert surveillance and access to communications data has been revised in accordance with legislation.
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Recommendation:	To note and approve the revised policy.
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1. Summary

The Regulation of Investigatory Powers Act 2000 (RIPA) can be used by the Council for the purposes of preventing or detecting crime or preventing disorder subject to approval by a Justice of the Peace. Authorisation under RIPA for the use of directed surveillance can only be granted where a criminal offence attracts a custodial sentence of six months or more or, where criminal offences relating to the underage sale of alcohol or tobacco are involved.

2. Introduction and Background

- 2.1 Following the introduction of RIPA, the Council adopted a policy for the authorisation of covert surveillance and a second policy for obtaining communications data, as allowed under that legislation. The policies have been merged into one which has been reviewed on several occasions to cater for revisions in the law and changes within this organisation.
- 2.2 The Council's policy and processes for covert surveillance have been inspected by the Office of Surveillance Commissioners on five occasions. The last inspection in October 2014 resulted in generally positive comments from the inspector. There were two recommendations that resulted from the inspection, firstly that the Director of Governance be appointed as Authorising Officer rather than the Chief Executive who has a separate role of Senior Responsible Officer and second, that training be provided to staff connected with RIPA. The Council's policy was updated at the time to reflect the change in the process and a couple of officers attended a refresher training course. Further training is being arranged for later this year for all officers involved with RIPA, in particular the Authorising Officers from 2019..
- 2.3 Only one inspection has taken place in respect of access to communications data, this was in August 2012. Use of this power had been negligible
- 2.4 The revised RIPA policy is a detailed document reflecting details contained within the Investigatory Powers Act 2016 and the revised Home Office Codes of Practice. Additionally, it provides further guidance on the investigative use of the Internet and

Social Networking for officers within the Council who may seek to utilise this as an investigative tool.

- 2.5 The revised policy has also removed reference to the Office of Surveillance Commissioners and be replaced with the Investigatory Powers Commissioner's Office, which has been the oversight body for matters concerning RIPA since September 2017.
- 2.6 The policy is divided into distinct sections, covering the use of covert directed surveillance, and obtaining communications data. The process of requesting and granting authorisations is prescribed by the Home Office and the Council uses adapted templates promoted by them to ensure due consideration is given to each application on an individual basis. An application must clearly demonstrate that the use of RIPA is necessary, that all other avenues of investigation have already been considered and that this action is proportionate to the objective.
- 2.7 The surveillance policy allows the use of "covert human intelligence sources" (CHIS). The Council has the power under the Act to use this method of obtaining information, but has never yet approved such action. The policy maintains a cautious approach to the use of CHIS.
- 2.8 The administration of the surveillance policy rests with the Head of Leadership Support, whilst authorisation rests with the Director of Governance and Monitoring Officer or his deputy. In order to access communications data, authorisations by the Director of Governance and Monitoring Officer or his deputy have to be administered through the National Anti-Fraud Network (NAFN) who undertake the role of "Single Point of Contact".
- 2.9 The numbers of approved RIPA applications, both for surveillance and access to communications data, are included in the Director of Governance update within the quarterly Performance Report. In the main the power has been used by the Council for environmental crime enforcement.

3. **Identification of Options**

- 3.1 The Council is required to have a compliant policy, which is reviewed at least annually by Members of the Cabinet.

4. **Resource Implications**

- 4.1 None.

5. **Corporate Implications**

- 5.1 Comment from the Section 151 Officer: Finance have been consulted and have nothing further to add (VB).
- 5.2 Comment from the Solicitor to the Council: The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make.
- 5.3 Comment from the Equalities Officer: 'This report does not specifically highlight any equality implications, however in discharging their responsibilities members are reminded to comply with the public sector equality duty as set out in section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15> '

6. **Appendices**

Appendix 1 – Regulation of Investigatory Powers Act 200 (RIPA) Policy

7. **Background Papers**

Home Office - [Covert surveillance and property interference code of practice](#)

Home Office - [Covert human intelligence sources code of practice](#)

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