

**CABINET  
8 MARCH 2022**

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**REGULATORY INVESTIGATORY POWERS ACT (RIPA)**

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**Responsible Cabinet Member -  
Councillor Scott Durham, Resources Portfolio**

**Responsible Director -  
Elizabeth Davison, Group Director of Operations**

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**SUMMARY REPORT**

**Purpose of the Report**

1. The purpose of this report is to inform and update Members about issues relevant to the use of the Regulation of Investigatory Powers Act 2000 and developments that have taken place since the last report to Cabinet in September 2021.

**Summary**

2. The Regulation of Investigatory Powers Act 2000 (“RIPA”) enables local authorities to carry out certain types of surveillance activity, as long as specified procedures are followed. The information obtained as a result of surveillance operations can be relied upon in court proceedings providing RIPA is complied with.
3. The Investigatory Powers Act 2016 (“IPA”) is the main legislation governing the acquisition of communications data. The information obtained as a result of these acquisitions can also be relied upon in court proceedings providing IPA is complied with.
4. This report updates members on issues relevant to this area of work and gives details of RIPA directed surveillance applications and IPA communications data applications that have been authorised since the last report to Cabinet.

**Recommendation**

5. It is recommended that:
  - (a) Note the developments that have taken place since September 2021.
  - (b) Receive further reports on the Council’s use of RIPA and IPA and other associated issues.

**Reasons**

6. The recommendations are supported by the following reasons:

- (a) In order to ensure that the Council complies with the legal obligations under RIPA, IPA and national guidance.
- (b) To help in giving transparency about the use of RIPA and IPA in this Council

**Elizabeth Davison**  
**Group Director of Operations**

### Background Papers

- (i) The Covert Human Intelligence Sources (Criminal Conduct) Act 2021
- (ii) The Investigatory Powers Commissioner’s Annual Report published on 6 January 2022

Amy Wennington : Extension 5466

S17 Crime and Disorder	The appropriate use of and oversight of RIPA and IPA powers will enable the Council to provide evidence to support appropriate prosecutions and tackle crime.
Health and Wellbeing	There are no specific implications for Health and Wellbeing
Carbon Impact and Climate Change	There are no issues which this report needs to address
Diversity	The RIPA Policy treats all groups equally
Wards Affected	All wards
Groups Affected	All groups
Budget and Policy Framework	This does not represent a change to the Council’s budget and policy framework.
Key Decision	This is not a key decision
Urgent Decision	This is not an urgent decision
Council Plan	The appropriate use of powers is a legislative requirement
Efficiency	Clarity about the lawful use of RIPA and IPA will help in the efficient use of powers.
Impact on Looked After Children and Care Leavers	This report has no impact on Looked After Children or Care Leavers

### MAIN REPORT

#### Information and Analysis

#### Consultation opened on revised CHIS code of practice

7. On 13 December 2021, the Home Office opened a consultation on the redrafted Covert Human Intelligence Source (CHIS) code of conduct which reflects the new provisions relating to the authorisation of criminal conduct by CHIS brought in by the Covert Human Intelligence Sources (Criminal Conduct) Act 2021.

8. The 2021 Act was discussed in the previous Cabinet Report. It provides express legal power for intelligence agencies, law enforcement agencies and some public bodies to authorise covert human intelligence sources to participate in conduct which would otherwise constitute a criminal offence. To reiterate, local government is not listed within the Act as an authority capable of authorising criminal conduct.
9. The updates to the code of practice are needed to reflect the changes in the 2021 Act, as well as a number of minor updates and clarifications intended to ensure that public authorities apply best practice in the use of their powers. The consultation proposes the implementation of a number of additional safeguards as to how the powers already in primary legislation should be exercised.
10. The finalised guidance is intended to guide law enforcement agencies, the UK Intelligence Community (UKIC) and public authorities who exercise CHIS powers.
11. The consultation closed on 6 February 2022.

### **The Investigatory Powers Commissioner's Annual Report**

12. On 6 January 2022 the Investigatory Powers Commissioner ("IPC"), Sir Brian Leveson, published his Annual Report on the use of covert investigatory powers by public authorities. These reports are submitted to the Prime Minister annually.
13. The Investigatory Powers Commissioner's Officer ("IPCO") independently oversees the use of investigatory powers, ensuring they are used in accordance with the law and in the public interest. The Report outlines IPCO's oversight of the use of these covert powers by more than 600 public bodies, including UK intelligence agencies, police forces and local councils. Inspection findings and recommendations are documented in the report, alongside errors and breaches.
14. The report also includes details of activities conducted by the Office for Communications Data Authorisations (OCDA), also under the authority of the Investigatory Powers Commissioner.
15. The IPC keeps under regular review the information that is provided in the Annual Report to ensure that the work of IPCO and OCDA is as transparent as possible.
16. The report shows that, in general, recommendations from IPCO's inspections have been implemented by public authorities. There is a growing level of understanding about the compliance challenges documented in previous Annual Reports and significant investment has been made into processes, structures and governance.
17. We can confirm that all recommendations that were given to this Council following our last IPCO inspection in August 2020 have been implemented.

### **Training - Update**

18. Training sessions were held during October and November 2021 for Council Officers in service areas that use or may need to consider using RIPA. This training was delivered by the Principal Lawyer (Litigation).
19. In addition, all of the designated Authorising Officers and members of the Chief Officers Executive and Chief Officers Board also received refresher RIPA training. This training was delivered by the Assistant Director, Law and Governance.
20. It is an essential requirement for us to conduct annual refresher training with our staff and we have to demonstrate our compliance with this requirement when we are inspected by the Investigatory Powers Commissioner's Office, which is usually at three-yearly intervals.

### **Bi-Annual Report Regarding this Council's RIPA and IPA usage**

#### **Directed Surveillance Authorisations**

21. There have been no authorisations granted since the last Cabinet Report.

#### **Communications Data Authorisations**

22. There have been no authorisations granted since the last Cabinet Report.