

Report of:	Director of Legal and Governance Support
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Submitted to:	Culture and Communities Scrutiny Panel
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Date:	26 January 2023
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Title:	Regulation of Investigatory Powers Act (RIPA) - overview
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Report for:	Information
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Status:	Public
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Strategic priority:	Quality of service
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Key decision:	Not applicable
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Why:	Not applicable
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Urgent:	Not applicable
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Why:	Not applicable
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Executive summary

That the Panel notes the report which provides an update on the processes the Council has in place to ensure continued compliance with the Regulation of Investigatory Powers Act 2000 (RIPA) and use of those powers.

Purpose

1. The report provides an update to the Panel on the processes the Council has in place to ensure compliance with the Regulation of Investigatory Powers Act 2000 (RIPA).

Background and relevant information

2. The Regulation of Investigatory Powers Act 2000 (RIPA) is the law governing the use of surveillance techniques by public authorities, including local authorities.
3. RIPA was enacted as part of a suite of legislation flowing from the Human Rights Act 1997. The Act requires that when public authorities need to use covert techniques to obtain information about someone, they only do so if surveillance is necessary, proportionate, and compatible with human rights.
4. The Act and supporting guidance set out a prescribed process that the Council must comply with if it deems that it is necessary to exercise its powers under RIPA.
5. For Public Authorities, there is an option to exercise powers under RIPA, where it meets the tests of necessity, proportionality and compatibility with the Human Rights Act, in relation to the following suspected offences:
 - a suspected offence could result in a custodial sentence of more than 6 months,
 - or where it is suspected that alcohol or cigarettes are being sold to children,
6. Where approval is given by a magistrate, covert surveillance can then be undertaken. The Council has not exercised its powers under RIPA since 2019.

Surveillance Policy

7. The Council has in place a Surveillance Policy which sets out how the Council would process an application under RIPA. This policy is reviewed by the Executive Member for Finance and Governance on an annual basis. It was last reviewed in December 2022.
8. The policy applies to all overt and covert surveillance undertaken by or on behalf of the Council. The policy includes not only RIPA based surveillance but also defines the grounds on which the Council would consider that it has legitimate reasons to conduct surveillance for grounds other than RIPA and the processes that must be complied with before any surveillance can be undertaken. The Surveillance policy identifies that the Council may determine it has a need to carry out covert surveillance to progress investigations outside of the RIPA framework, where (i) while significant, the matters under investigation may not typically result in criminal proceedings, or (ii) the potential criminal offence(s) under investigation are likely to attract a penalty below the RIPA threshold. Examples of such instances include but are not limited to:
 - suspected benefit fraud;
 - children at risk as court orders are not being respected;
 - serious cases of anti-social behaviour; or
 - contractors failing to carry out contracted works.

9. The policy applies to all Council employees and any other party undertaking surveillance on behalf of the Council by contract.
10. Information on the use of RIPA is also reported to Corporate Affairs and Audit Committee on an annual basis as part of the Senior Information Responsible Officer (SIRO) report.

What decision(s) are being recommended?

11. That this Panel notes the report which provides an update on the processes the Council has in place to ensure continued compliance with the Regulation of Investigatory Powers Act 2000 (RIPA).

Rationale for the recommended decision(s)

12. The Panel have requested information on the usage of RIPA powers within the local authority.

Other potential decision(s) and why these have not been recommended

13. Not applicable.

Impact(s) of the recommended decision(s)

Legal

14. The policy ensures compliance with legal requirements in relation to RIPA activities.

Strategic priorities and risks

15. The Council’s approach to RIPA ensures that it acts lawfully when undertaking RIPA activities. This has a positive impact on the strategic risks that the Council could fail to comply with the law or fail to ensure good governance.

Human Rights, Equality and Data Protection

16. Not applicable.

Financial

17. There are no financial implications arising from this report which is for information only.

Actions to be taken to implement the recommended decision(s)

Action	Responsible Officer	Deadline
Not applicable.		

Appendices

No appendices

Background papers

Body	Report title	Date
Culture and Communities Scrutiny Panel	RIPA overview	23/07/2018
Culture and Communities Scrutiny Panel	RIPA Update	15/4/2021
Corporate Affairs and Audit Committee	Annual assurance report - SIRO	31/03/2022
Executive Member for Finance and Governance	Annual review of the Surveillance policy	14/12/2022

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