

## **Audit and Governance Committee**

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**Date of Meeting:** 12 March 2020

**Report Title:** Revised RIPA Policy and Procedures

**Senior Officer:** Jan Bakewell - Director of Governance & Compliance Services

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### **1. Report Summary**

- 1.1. This report outlines the changes made to the Council's RIPA Policy and Procedures in order to comply with recommendations made by the Investigatory Powers Commissioner's Office (IPCO) and changes in legislation.

### **2. Recommendations**

- 2.1. That the Committee considers and approves the proposed revised RIPA Policy and Procedures.

### **3. Reasons for Recommendations**

- 3.1 The RIPA Policy and Procedures provide guidance on the undertaking of surveillance under the Regulation of Investigatory Powers Act 2000 (RIPA), the Protection of Freedoms Act 2012 and the Investigatory Powers Act 2016 (IPA). IPCO recently carried out a desktop inspection of the Council's use of its RIPA powers. The proposed changes to the policy and procedures address the recommendations in the IPCO inspection report of October 2019.

### **4. Other Options Considered**

- 4.1 This is not applicable.

### **5. Background**

- 5.1 The Council will occasionally need to use covert surveillance/access communications data/use a CHIS (covert human intelligence source) in order to carry out its enforcement functions effectively.

5.2 The IPCO Inspection Report and action plan were considered by the Audit & Governance Committee at its last meeting on 5<sup>th</sup> December 2019, which recommended the following updates to the Policy & Procedures:

- Paragraphs 2.18 to 2.26 of the revised Code of Practice for Covert Surveillance and Property Interference 2018 should be incorporated into the RIPA Policy & Procedure. This can be found at Section 5.6.
- Paragraphs 3.10 to 3.17 of the revised Code of Practice for Covert Surveillance and Property Interference 2018 have been taken into account when reviewing Section 10 of the RIPA Policy & Procedure (and also the Council's Online Investigations Policy).

5.3 The Council has also reviewed its authorising officers for RIPA and CHIS surveillance applications as per the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (2010/521). Applications are now to be authorised by a Director listed in Schedule 1 of the Policy & Procedure in accordance with an authorisation from the Council's Acting Chief Executive dated 16<sup>th</sup> January 2020. This is considered to be a more appropriate level of decision making for authorisations. Previously, only Executive Directors and the Director of Finance & Customer Services were authorising officers.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

6.1.1 Compliance with RIPA, the Protection of Freedoms Act 2012 and the IPA provide a regulatory framework, which enables public authorities to obtain information through the use of certain covert investigatory techniques. Embarking upon covert surveillance outside the scope of the authorisation could result in the criminal investigation being compromised, as the evidence is likely to be considered to have been obtained unlawfully.

### **6.2. Finance Implications**

6.2.1 There are no financial implications arising from this proposal.

### **6.3. Policy Implications**

6.3.1 There are no policy implications arising from this report.

### **6.4. Equality Implications**

6.4.1 There are no equality implications arising from this report.

## **6.5. Human Resources Implications**

6.5.1 Officers are required to be fully aware of their obligations when conducting surveillance. To this end, training is offered on an annual basis to the authorising officers.

## **6.6. Risk Management Implications**

6.6.1 There are no risk management arising from this report.

## **6.7. Rural Communities Implications**

6.7.1 There are no direct implications for rural communities.

## **6.8. Implications for Children & Young People/Cared for Children**

6.8.1 There are no direct implications for children and young people.

## **6.9. Public Health Implications**

6.9.1 There are no direct implications for public health.

## **6.10. Climate Change Implications**

6.10.1 There are no direct implications for climate change.

## **7. Ward Members Affected**

7.1 There are no direct implications.

## **8. Access to Information**

8.1 All supporting documents are included with this report.

## **9. Contact Information**

9.1 Any questions relating to this report should be directed to the following officer:

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