

# CHESHIRE EAST COUNCIL

## REPORT TO: CABINET

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<b>Date of Meeting:</b>	10 <sup>th</sup> December 2012
<b>Report of:</b>	Strategic Director Places and Organisational Capacity
<b>Subject/Title:</b>	Regulation of Investigatory Powers Act (2000) (RIPA) – Revision of Policy and Procedures
<b>Portfolio Holder:</b>	Cllr Peter Raynes

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### **1.0 Report Summary**

- 1.1 The Regulation of Investigatory Powers Act (RIPA) provides a regulatory framework to enable public authorities to obtain information through the use of certain covert investigatory techniques. The Protection of Freedoms Act 2012, which came into force on 1st November, 2012, has implications for the way in which the Council carries out covert surveillance and the existing RIPA Policy and Procedures have been revised to take account of this.

### **2.0 Decision Requested**

- 2.1 Cabinet is requested to approve the revised RIPA Policy and Procedures.

### **3.0 Reasons for Recommendations**

- 3.1 The Council is required to comply with the necessary legislation and regulations and ensure that its policies and procedures reflect the latest changes.

### **4.0 Wards Affected**

- 4.1 All wards.

### **5.0 Local Ward Members**

- 5.1 Not applicable.

### **6.0 Policy Implications**

- 6.1 Not applicable.

### **7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

- 7.1 Should the Council breach an individual's human rights in undertaking surveillance, then the individual may subsequently sue the Council.

Additionally, failure to comply with the legislation and the regulations would restrict the Council's ability to carry out surveillance and so reducing the risk of successful prosecutions in the future.

## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

- 8.1 The legal processes which must be adhered to under the Regulation of Investigatory Powers Act 2000 are all set out in the policy appended.

## **9.0 Risk Management**

- 9.1 If the Council fails to comply with the legislation and regulations, then there are reputational risks as well as the financial and legal risks identified in 7.0 and 8.0 above.

## **10.0 Background and Options**

- 10.1 The Protection of Freedoms Act, which came into force on 1st November, 2012, now requires public authorities to acquire judicial approval to use covert surveillance techniques. It also restricts the use of surveillance to the investigation of offences which attract a custodial sentence of six months or more. Consequently, it has been necessary to review the existing RIPA policy and procedures to take account of the requirements of the Act, and the revised document (Appendix 1) is attached to this report. The changes to the legislation regarding RIPA have come about partly as a result of the perceived overuse of the powers by some local authorities for the investigation of offences, such as dog fouling, fly tipping, etc. It should be noted that Cheshire East Council has to date used RIPA powers very rarely, and only as a last resort, when the offence was serious and when every other investigation option had been considered.

## **11.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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