

<b>Report to:</b>	<b>AUDIT COMMITTEE</b>
<b>Relevant Officer:</b>	Mark Towers, Director of Governance and Partnerships
<b>Date of Meeting</b>	19 October 2023

## COVERT SURVEILLANCE POLICY

### 1.0 Purpose of the report:

1.1 To consider updates to the Council’s Covert Surveillance Policy (formally known as the RIPA Policy) for approval.

### 2.0 Recommendation(s):

2.1 To approve the updated Covert Surveillance Policy and authorise the Director of Governance and Partnerships to make any minor amendments as required.

2.2 That should the policy require further significant updating following the November inspection, then it be brought back to this Committee at a future meeting

### 3.0 Reasons for recommendation(s):

3.1 To bring the policy up to date to reflect current good practice and to recognise and record that some covert surveillance activity undertaken by the Council falls outside of the Regulation of Investigatory Powers Act (2000). The main updates have been in connection with future proofing the document rather than changing the substance and meaning/ interpretation of the policy. The changes are shown in colour. Any proposed deletions have a ~~striketrough~~ change.

3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.2b Is the recommendation in accordance with the Council’s approved budget? Yes

3.3 Other alternative options to be considered:

N/a

### 4.0 Council Priority:

4.1 The use of covert surveillance supports the achievement of all Council priorities.

## 5.0 Background and Key Information

5.1 The Regulation of Investigatory Powers Act 2000 regulates covert investigations by various bodies, including local authorities. It was introduced to ensure that individuals' rights are protected whilst ensuring that law enforcement and security agencies have the powers they need to do their job effectively. The Act provides a framework within which activities, which it covers, can be carried out in a manner consistent with the individuals Human Rights. It also provides statutory protection for the authority concerned if its provisions are adhered to.

5.2 The Council has an agreed policy in place and this was last approved by the Audit Committee on 14<sup>th</sup> November 2019. The purpose of the policy is to:

- Explain the scope of the 2000 Act and where it applies.
- Provide guidance on the internal authorisation procedures to be followed.
- Provide guidance on applications for judicial approval.

The 2000 Act requires that when the Council undertakes 'directed surveillance' or uses a 'covert human intelligence source' these activities must only be authorised by an officer with delegated powers when the relevant statutory criteria is satisfied.

5.3 Authorisation and judicial approval under the 2000 Act gives lawful authority to carry out surveillance and the use of a human intelligence source. Obtaining authorisation and judicial approval protects the Council and its officers from complaints of interference with the rights protected by Article 8 (1) of the European Convention on Human Rights enshrined in English law through the Human Rights Act 1998. Provided activities undertaken are also "reasonable and proportionate", they will not be in contravention of Human Rights legislation.

5.4 The Council has a Corporate RIPA Group which meets two or three times per year to keep an overview of surveillance activities across the Council. The Group is chaired by the Director of Governance and Partnerships and includes those responsible for governance, policy, authorisation and monitoring of covert surveillance activities across the Council.

5.5 The Group has oversight of the policy and identified a number of changes which needed to be made to help ensure that the policy continues to keep the Council legally compliant whilst also reflecting working practices which have been developed such as the use of social media and the non-RIPA authorisation process.

- 5.6 The Council is externally inspected on its use of covert surveillance approximately every three years. The next inspection visit is on the 9<sup>th</sup> November 2023. Should there be any minor drafting changes required following the inspection then authority is sought for the Director of Governance and Partnerships to make these. If anything significant or new is required following the inspection then a further report will be submitted to this committee.

Does the information submitted include any exempt information? No

**List of Appendices:**

Appendix 6(a) - Covert Surveillance Policy and Guidance

**6.0 Financial considerations:**

- 6.1 The covert surveillance process is already embedded into the Council's investigatory activities and therefore will not result in an additional cost.

**7.0 Legal considerations:**

- 7.1 Non-adherence to the Policy could result the Council contravening the Human Rights Act and may prevent the successful prosecution of those identified as committing criminal activities.

**8.0 Risk management considerations:**

- 8.1 There is a risk that the Council is subject to legal action due to non-compliance with the RIPA legislation due to a breach of the Human Rights Act.
- 8.2 Staff involved in the process are offered the opportunity to attend training on the procedures which need to be followed when planning to undertake covert surveillance.

**9.0 Equalities considerations and the impact of this decision for our children and young people:**

- 9.1 The Covert Surveillance Policy does not discriminate or adversely impact protected groups in any way. More detailed reflection on how specific covert surveillance could affect people differently because of shared protected characteristics as defined in the Equality Act will be considered on a case by case basis.

**10.0 Sustainability, climate change and environmental considerations**

- 10.1 None.

**11.0 Internal/ External Consultation undertaken:**

11.1 The Covert Surveillance Policy has been prepared in consultation with the Corporate RIPA Group.

**12.0 Background papers:**

12.1 Regulation of Investigatory Powers Act (2000)