

REPORT TO CABINET

Open		Would any decisions proposed :			
Any especially affected Wards	Mandatory/	Be entirely within Cabinet's powers to decide		YES	
	Operational	Need to be recommendations to Council		NO	
		Is it a Key Decision		NO	
Lead Member: Leader Stuart Dark E-mail: <i>cllr.stuart.dark@west-norfolk.gov.uk</i>		Other Cabinet Members consulted:			
		Other Members consulted: Corporate Performance Panel (13/04/22)			
Lead Officer: Jamie Hay E-mail: <i>Jamie.hay@west-norfolk.gov.uk</i> Direct Dial:01553 616701		Other Officers consulted: Mark Whitmore John Greenhalgh Martin Chisholm Barry Brandford Stuart Ashworth Lee Osler			
		All members of Management Team have had sight of the policy to scrutinise it.			
Financial Implications NO	Policy/ Personnel Implications NO	Statutory Implications YES	Equal Impact Assessment YES	Risk Management Implications NO	Environmental Considerations NO

Date of meeting: 21 June 2022

REGULATION OF INVESTIGATORY POWERS ACT (RIPA) 2000 POLICY

Summary

We are governed by the Regulation of Investigatory Powers Act, Human Rights Act, Protection of Freedom Act, Data Protection Act/GDPR, and Investigatory Powers Act in respect of surveillance and other related activities. We are inspected on these matters (usually every 3 years) and were last inspected on Friday 17th December 2021 by IPCO (the Investigatory Powers Commissioner's Office).

As such even if we do not use the powers available to us, we must ensure our policies and procedures are fit for purpose and robust to assist in remaining compliant with the legislation, and furthermore enable us to demonstrate this to IPCO.

Some further areas for inclusion within the policy were highlighted by IPCO during the inspection, a consultation process has been undertaken with a professional trainer and policy development provider to produce a fresh RIPA policy, and Internet and Social Media Research Code of Practice, as well as a robust set of procedures and guidance materials to sit behind the policy (these procedures are in the process of being finalised as part of the consultation process).

Our current policy does not include:

- Surveillance outside of RIPA (Non-RIPA), this is usually where crime thresholds for RIPA purposes are not met.
- Details in respect of the recording, retaining and destruction of materials (private information).

Management Team have scrutinised this policy on 15/03/22 and relevant changes have been made as appropriate.

This policy has been passed for comments by Personnel and Unison and there will be a general requirement for staff training following the adoption of the policy, as such training is to be provided to key members of staff identified as holding roles under this policy, as well as training to be delivered to staff members identified as having the potential to undertake activities referred to under this policy and its procedures (Unison have expressed a wish to attend this training to understand this complex area from a staffing perspective).

There will be a need to reference this policy in other policies, including the Corporate Records & Retention Policy, The Disciplinary procedures and the attached new Internet and Social Media Investigations and Research Code of Practice.

An equality Impact Assessment on the Policy has also been undertaken and passed for review by a member of the Equality Team, highlighting no areas of concern.

Any policy changes would need to be approved through Corporate Performance Panel, Cabinet and full Council. As per section 5.2 of the policy the Council will report its use, or non-use of these powers to the Corporate Performance Panel in line with the guidance provided by IPCO to enable members to determine the effectiveness of the RIPA policy each year. The Appendix A is a list of named officers, job titles and their role under RIPA which can be easily amended as required outside of formal approval processes relating to policy.

Recommendation

1. To approve the attached revised policy, which has been produced from scratch following the last IPCO inspection to reflect the comments of the inspector, and through consultation with a professional training and policy development provider.
2. As per section 5.2 of the policy the Council will report its use, or non-use of these powers to the Corporate Performance Panel in line with the guidance provided by IPCO to enable members to determine the effectiveness of the RIPA policy each year.
3. Any minor amendments (such as formatting, layout, amendments to Appendix A roles and officers assigned to roles) to be a delegated decision with liaison with a member / portfolio holder as decided by this Cabinet.
4. Any relevant or serious errors highlighted contrary to this policy **MUST** be reported to IPCO and furthermore it is recommended any such occurrences are fed into the Annual Governance Statement.
5. Delegated Authority is granted to the Assistant Director for Legal Services in consultation with the Leader to make any amendments to the policy as recommended by IPCO.

Reason for Decision

To ensure compliance with current legislation, to replace the previous policy which has become out of date and does not provide sufficient or up to date information / details to officers or members of the public on the full requirements for RIPA and Non-RIPA.

1 Background

We are governed by the Regulation of Investigatory Powers Act, Human Rights Act, Protection of Freedom Act, Data Protection Act/GDPR, and Investigatory Powers Act in respect of surveillance and other related activities.

We are inspected on these matters (usually every 3 years) and have been recently inspected on Friday 17th December 2021 by IPCO (the Investigatory Powers Commissioner's Office)

As such even if we do not necessarily use the powers available to us, we must ensure our policies and procedures are fit for purpose and robust to assist in remaining compliant with the legislation and furthermore to enable us to demonstrate this to IPCO.

Following the inspection undertaken by IPCO on 17 December 2021 a consultation process was undertaken in order to conduct a full review of our current policy and procedures in order to ensure that the policy remained compliant with the governing legislation, the relevant information required by officers in order to conduct their activities in compliance with legislation and relevant information to the general public on how we conduct these activities and how they can seek redress where appropriate.

2 Options Considered

- A) To continue with the current policy which has since become out of date and does not include details highlighted by the Inspector in respect of surveillance outside of RIPA or retention of data and materials.
- B) To approve the attached revised policy, which has been produced from scratch following the last IPCO inspection to reflect the comments of the inspector, and through consultation with a professional training and policy development provider.

3 Policy Implications

This policy is intended to ensure relevant details highlighted by the Inspector are included moving forwards, providing a more fit for purpose and robust policy to assist in remaining compliant with the legislation, as well as demonstrating this to IPCO.

4 Financial Implications

The policy, procedures and guidance consultation for this policy cost a total of £2,000.00. There will be a requirement to provide training following the implementation of this new policy to officers with roles and responsibilities identified within the policy, members of staff who are identified as having the potential to undertake activities identified within the policy. The cost of training will be met from the corporate training budget.

5 Personnel Implications

This policy (and the background procedures) are designed to assist, officers, line managers and staff members with specific roles and responsibilities under RIPA. Helping to guide them through the complexities of the legislation. The use of these powers would be dependant to each specific service area that deals with investigation/enforcement matters that would lead to such activities being considered or carried out.

6 Environmental Considerations

None.

7 Statutory Considerations

We as a public authority are bound by the legislation (the Regulation of Investigatory Powers Act, Human Rights Act, Protection of Freedom Act, Data Protection Act/GDPR, and Investigatory Powers Act). Any breaches of the policy would usually lead to the requirement of informing IPCO of any relevant or serious error that has impacted upon the private and family life of any individual. The policy and background procedures reflect this and the steps required.

8 Equality Impact Assessment (EIA)

An equality impact assessment has been carried out and no matters have arisen.

9 Risk Management Implications

Any relevant errors or serious errors identified in respect of surveillance related activities under these powers must be notified to IPCO. It is furthermore recommended that any such occurrences are highlighted within the Annual Governance Statement. The policy in general is designed to assist in mitigating the risks associated to surveillance related activities and provides relevant details to remain compliant with the governing legislation.

10 Declarations of Interest / Dispensations Granted

None.

11 Background Papers

- IPCO Desktop Inspection Report
- IPCO Data Assurance letter to Local Authorities
- Equality Impact Assessment

- Internet Social Media Investigations Code of Practice (also produced as part of this policy review)

Other papers that were referred to were:

- Home Office: Covert Surveillance and Property Interference Revised Code of Practice, August 2018
- Home Office: Covert Human Intelligence Sources Revised Code of Practice, August 2018

The above Home Office Codes of Practice can be found on the Gov.uk website and also on InSite, Corporate Documents, RIPA Procedures & Guidance.