

## POLICY REVIEW AND DEVELOPMENT PANEL REPORT

REPORT TO:	Corporate Performance Panel		
DATE:	27/11/2024		
TITLE:	January 2023 to December 2023 Report on use, or non-use of RIPA Powers		
TYPE OF REPORT:	Update		
PORTFOLIO(S):	Leader Alistair Beales		
REPORT AUTHOR:	Jamie Hay		
OPEN/EXEMPT	Open	WILL BE SUBJECT TO A FUTURE CABINET REPORT:	No

### **REPORT SUMMARY/COVER PAGE**

<p><b>PURPOSE OF REPORT/SUMMARY:</b></p> <p>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.</p> <p>In accordance with paragraph 4.47 of the Home Office Covert Surveillance and Property Interference Code of Practice (August 2018) and as per section 5.2 of the Council's Regulation of Investigatory Powers Act 2000 (RIPA) 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.</p>
<p><b>KEY ISSUES:</b></p> <p>Attached to this report is the annual statistics return reported to IPCO for the period 1 January 2023 to 31 December 2023.</p> <p>The council have recently received an inspection by the Investigatory Powers Commissioners' Office (IPCO). Details from the report dated 2<sup>nd</sup> August 2024 are contained within the report detail to this report.</p>
<p><b>OPTIONS CONSIDERED:</b></p> <p>To note the details of this report and the attached details of the recorded use of RIPA powers for the period 1 January 2023 to 31 December 2023 as reported to IPCO and consider the effectiveness of the RIPA policy.</p>
<p><b>RECOMMENDATIONS:</b></p> <p>Consider the details of the report and evaluate the effectiveness of the RIPA Policy.</p>
<p><b>REASONS FOR RECOMMENDATIONS:</b></p> <p>To ensure the Council complies with its legal obligations, maintaining transparency and accountability that the authority uses its powers appropriately and to assess the effectiveness of the policy to determine whether it adequately safeguards against misuse and whether it aligns with current operational needs and legal standards.</p>

## **REPORT DETAIL**

### **1. Introduction**

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) by IPCO (the Investigatory Powers Commissioner's Office). IPCO are required by law to gather statistical data from all public authorities on their use of Investigatory Powers available to them under the relevant legislation, including:

- Investigatory Powers Act 2016 (IPA)
- Regulation of Investigatory Powers Act 2000 (RIPA)
- Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA); and
- Police Act 1996 (PA)

During 2024 the Council received an inspection by IPCO and their report dated 2<sup>nd</sup> August 2024 outlined our ongoing compliance with RIPA 2000 and IPA 2016 and that the Council will not require further inspection this year. The report highlighted that training has been completed and the RIPA policy has been updated since the last inspection. As well as the use of powers for Covert Human Intelligence Source (CHIS) which were found to have been well formed and with appropriate attention to the associated risks when deploying the CHIS.

In accordance with paragraph 4.47 of the Home Office Covert Surveillance and Property Interference Code of Practice (August 2018) and as per section 5.2 of the Council's Regulation of Investigatory Powers Act 2000 (RIPA) 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.

### **2. Proposal**

To note the details of this report and the attached details of the recorded use of RIPA powers for the period 1 January 2023 to 31 December 2023 as reported to IPCO and consider the effectiveness of the RIPA policy.

### **3. Issues for the Panel to Consider**

The annual statistic return is based upon liaison with Council service areas that within the course of their activities may result in their use of RIPA powers. These powers are described within the Council's Regulation of Investigatory Powers Act 2000 (RIPA) policy, as well as the relevant Home Office Codes of Practice and the relevant legislation, including:

- Investigatory Powers Act 2016 (IPA)
- Regulation of Investigatory Powers Act 2000 (RIPA)
- Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA); and
- Police Act 1996 (PA)

The details contained within this report outlining the areas that have been highlighted within the recent IPCO Inspection concluded 2<sup>nd</sup> August 2024:

Work is ongoing to ensure that the key compliance issues continue to receive the necessary internal governance and oversight through the responsible officers stated within the Policy: policy refreshes; annual updates to Elected Members (i.e., this report); ongoing training and awareness raising; internal compliance monitoring by lead managers within their business areas; and the retention, review and destruction (RRD) of any product obtained through the use of covert powers (Records and Product Management in accordance with the Safeguards Chapters of the relevant Codes of Practice).

One key area highlighted by the Inspectors was safeguards are in place to ensure that only those eligible, can utilise the internet for investigations. This is an expanding and developing area and one which will no doubt produce good dividends. However, the use of the internet needs to be audited by managers to ensure the activity undertaken, once permitted by the ICT Department, does not stray into the territory whereby a RIPA authorisation would need to be considered.

As a result of this details have been obtained across the organisation of officers who have such access, and this is to be cascaded to review on a frequent basis by line managers to confirm that:

- Access is still required and where it is no longer required is removed.
- Case review of the use of open source and internet research by line managers.
- Refresher training to enforcement and investigation staff on the use of open source and internet research (including social media).

#### **4. Corporate Priorities**

The Council's Regulation of Investigatory Powers Act 2000 (RIPA) policy sets out how the Council will carry out surveillance activities in a controlled manner to ensure compliance with its governing legislation (as set out within the policy).

#### **5. Financial Implications**

None.

#### **6. Any other Implications/Risks**

There are risks in respect of Human Rights Act contraventions, Data breaches. It is therefore important that the Council's Regulation of Investigatory Powers Act 2000 (RIPA) policy is adhered to across the authority, and any breaches of the policy would feed into the Annual Governance Survey.

#### **7. Equal Opportunity Considerations**

None.

## **8. Environmental Considerations**

None.

## **9. Consultation**

None.

## **10. Conclusion**

Consider the details of the report and evaluate the effectiveness of the RIPA Policy.

## **11. Background Papers**

- IPCO Annual Statistic return 2023