

KEY DECISION? YES/NO

**CORPORATE POLICY AND GUIDANCE ON SURVEILLANCE AND THE USE OF
THE REGULATION OF INVESTIGATORY POWERS ACT 2000**

SUMMARY AND RECOMMENDATIONS:

SUMMARY:

A review of the Council's corporate policy on the use of covert investigatory techniques including surveillance within and outside the scope of the Regulation of Investigatory Powers Act 2000 (RIPA) has been undertaken to ensure that it is robust and up to date.

RECOMMENDATION: The Corporate Governance, Audit and Standards Committee is recommended to approve the corporate Surveillance and RIPA policy at Appendix 1 and proposed amendments at Appendix A.

1. INTRODUCTION

- 1.1 Most of the surveillance carried out by the Council will be done overtly, there will be nothing secretive about it. In many cases, officers will be going about Council business openly.
- 1.2 The Council's corporate policy on the use of covert techniques under RIPA should be reviewed on a regular basis. The powers under RIPA are used infrequently (if at all some years).
- 1.3 The Investigatory Powers Commissioner's Office (IPCO) reviews Rushmoor Borough Council's policies and procedures relating to RIPA on a regular basis. The next self-assessment is due imminently.
- 1.4 Most of the surveillance undertaken by the Council is outside of RIPA (for example for planning enforcement purposes or under Licensing legislation). The IPCO have made clear in their guidance that robust processes and procedures need to be in place for any surveillance carried, whether under the RIPA provisions or under separate legislation.
- 1.5 CCTV surveillance across the Borough is now carried out by Runnymede Borough Council, on behalf of Rushmoor Borough

Council, with the appropriate General Data Protection Regulation (GDPR) and contractual arrangements in place. The CCTV surveillance is outside of RIPA.

2. BACKGROUND

- 2.1 Council officers who carry out investigations as part of their duties sometimes need to consider using covert techniques, i.e., techniques that leave the subject of the investigation unaware that they are being observed or investigated.
- 2.2 RIPA provides a framework within which such techniques may be used. All RIPA authorisations must now be approved by the Magistrates' Court before any surveillance can take place.
- 2.3 It should be noted that surveillance outside of RIPA will be undertaken and it is important that this is lawful and takes account of human rights legislation.
- 2.4 Only trained and authorised Council officers may authorise and undertake surveillance, all of which is subject to detailed scrutiny by the Investigatory Powers Commissioner's Office (IPCO).
- 2.5 Training was offered to staff involved in any surveillance activities in February 2023. Authorising officers and the RIPA co-ordinator (Corporate Manager – Legal Services) also attended a detailed training session in Spring 2023.
- 2.6 The policy identifies the officers who may authorise surveillance activities. The new policy updates the authorising officers within the Council.

3. IMPLICATIONS

- 3.1 A review of the Council's policy on the use of surveillance and use of powers under the Regulation of Investigatory Powers Act 2000 is required to ensure that it complies with any changes in the law, the most recent guidance and considers any recommendations made on inspection.

4. FINANCIAL AND RESOURCE IMPLICATIONS

- 4.1 There are no additional financial implications as a result of these changes. There is a continuing requirement to ensure that refresher training is provided to officers at regular intervals.

5. EQUALITIES IMPACT IMPLICATIONS

- 5.1 No issues arise.

6. RECOMMENDATION:

- 6.1 That the Corporate Governance, Audit and Standards Committee approve the corporate Surveillance and RIPA Policy and Guidance at Appendix 1 to this report and proposed amendments at Appendix A.

CONTACT DETAILS:

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PROPOSED AMENDMENTS – UPDATED MAY 2023

APPENDIX A: LIST OF AUTHORISING OFFICERS

James Duggin
Nikki Fleming
Ian Harrison
Colin Alborough

NEW CODES OF PRACTICE AND GUIDANCE TO BE COMPLIED WITH:

- 1) Investigatory Powers Act 2016 – codes of practice (updated 19 April 2023)
- 2) Covert surveillance code of practice (updated 13 December 2022)
- 3) Code of practice for investigation of protected electronic information (20 September 2018)
- 4) Covert Human Intelligence Sources code of practice 2022 (updated 13 December 2022)
- 5) Interception of communications code of practice 2022 (updated 13 December 2022)
- 6) Any surveillance must be in line with the Data Protection Act 2018 (as amended) and the UK General Data Protection Regulation (GDPR)