

MUNICIPAL YEAR 2012/20123 REPORT NO. **233A**

**MEETING TITLE AND DATE:**

Council  
4<sup>th</sup> July 2012

**REPORT OF:**

Director of Finance &  
Corporate Resources

**Agenda – Part: 1**

**Item: 15**

**Subject:**

**RIPA POLICY AND PROCEDURES**

**Wards: All**

**Cabinet Member consulted:**

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**1. EXECUTIVE SUMMARY**

- 1.1 The council has now revised its RIPA procedures and requires that the new procedures are approved to full council.

**2. RECOMMENDATIONS**

- 2.1 That Council approve the revised RIPA policy and procedures.

### **3. BACKGROUND**

#### **RIPA 2000**

- 3.1 The Regulation of Investigatory Powers Act 2000 (“RIPA”) and the SI 2003/3171 and the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (RIPA Order 2010) regulate the way investigations are carried out for the prevention and detection of crime and the prevention of disorder.
- 3.2 Controls on covert surveillance were introduced as a consequence of the Human Rights Act 1998, which enshrined the European Convention on Human Rights into UK law and came into effect on 2 October 2000. RIPA aims to ensure that public bodies respect the privacy of members of the public when carrying out their investigations and that there is an interference with privacy only where the law permits it and there is a clear public interest justification.
- 3.3 The main aim of RIPA is to ensure that covert investigations are conducted in such a way as to protect individuals’ rights and act as a safeguard to protect council officers and the Council against any legal challenge.
- 3.4 As part of the governance role members are required to review that the authority policy and procedures on the application and conduct of RIPA investigations are fit for purpose.
- 3.5 The Council has recently reviewed and revised its RIPA procedures in light of the last Office of Surveillance Commissioners (OSC) audit recommendations and other good practice standards. The revised procedures were presented to Audit Committee on 4<sup>th</sup> April and the Committee agreed that the revised procedures (subject to specified amendments) should be passed to full Council for approval. The revised procedures are attached. The significant changes are summarised below:
  - 3.5.1 Existing sections have been re-written and expanded such as the section on Covert Human Intelligence Sources (CHIS). The previous procedures were limited in terms of detailed guidance. The new procedures address this deficiency and for example, explain appropriate operational procedures in the case of a CHIS with concealed recording equipment, as well as provide information on the proper management and welfare of a CHIS.
  - 3.5.2 New sections are included such as the reporting un-authorized activity and a “Best Practice” guide. The Cancellation and Renewal process is more fully explained. The section on *Access to Communications Data* has been revised to take into account the role of the National Anti-Fraud Network which acts now as our Single Point of Contact (SPOC).

- 3.5.3 The new procedures represent a complete overhaul of the process for seeking authorisation, to enable robust and real monitoring and control from the centre. The previous procedures allowed departments to operate with a silo mentality whereby Central control was only exercised after the authorisation process was complete. In the new procedures, officers must obtain a unique reference number (URN) initially from Legal before the authorisation process is allowed to proceed.
- 3.5.4 The new procedures represent a significant improvement in terms of usage of plain language, making the document more accessible to non-legal staff. Comprehension of the procedures is further enhanced by the use of scenarios designed to illustrate the required procedures using everyday situations that operational staff can relate to.
- 3.5.5 These main changes reflect the recommendations given in the last OSC inspection and mirror best practice contained within the Home Office Code of Practice and the OSC own guidance manual.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 There are no other options which can be considered as the recommendations set out in this report are made in order to comply with statutory guidance and good practice.

#### **5. REASONS FOR RECOMMENDATIONS**

- 5.1 Members play an important governance role of reviewing the council RIPA procedures and ensuring that they are fit for purpose. The new procedures meet this standard.

#### **6. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES AND OTHER DEPARTMENTS**

##### **6.1 Financial Implications**

There are no specific financial implications relating to this report. However, a failure by the Council to exercise its powers appropriately and in accordance with the law could result in legal challenge and possibly in a claim for damages.

##### **6.2 Legal Implications**

The legal implications are set out within the body of this report.

##### **6.3 Property Implications**

There are no specific property implications arising from this report.

#### **7. KEY RISKS**

- 7.1 The key risks to the Council are that without clear and robust policies and procedures in place, there would be a risk that officers/members would fail to comply with the relevant legislation and associated codes of practice. Consequently, complaints may be made against the Council by aggrieved persons, which may proceed to investigation by the independent tribunals set up by the Office of the Surveillance Commissioner. The Tribunals have the power to cancel authorisations, order the destruction of any records obtained in exercise of the powers conferred by RIPA and award compensation as they see fit.

## **8. IMPACT ON COUNCIL PRIORITIES**

### **8.1 Fairness for All**

Scrutiny by Members of the Council's policy and procedures and ensuring they are fit for purpose reduces the risk of the council misusing its powers resulting in injustice to any individual.

### **8.2 Growth and Sustainability**

No direct relevance

### **8.3 Strong Communities**

Scrutiny by Members of the Council's policy and procedures for exercising its powers under RIPA helps to generally promote the local population's confidence in the Council.

## **9. PERFORMANCE MANAGEMENT IMPLICATIONS**

There are no specific performance management implications arising from this report.

## **10. HEALTH AND SAFETY IMPLICATIONS**

There are no specific health and safety implications arising from this report.

### **Background Papers**

- Relevant legislation
- The Council's Policy and Procedure in relation to RIPA use and associated forms.