



Borough of Telford and Wrekin

Cabinet

Thursday 16 February 2023

Regulation of Investigatory Powers Policy and Annual Update 2022/23

Cabinet Member:	Cllr Rae Evans - Cabinet Member: Finance, Governance and Customer Services
Lead Director:	Anthea Lowe - Director: Policy & Governance
Service Area:	Policy & Governance
Report Author:	Richard Phillips - Service Delivery Manager, Legal & Democracy
Officer Contact Details:	Tel: 01952 383241 Email: richard.phillips@telford.gov.uk
Wards Affected:	All Wards
Key Decision:	Not Key Decision
Forward Plan:	Not Applicable
Report considered by:	SMT – 17 January 2023 Business Briefing – 26 January 2023 Cabinet – 16 February 2023

1.0 Recommendations for decision/noting:

It is recommended that Cabinet

- 1.1 Consider and agree the revised RIPA Policy;
- 1.2 Note the Council's use and compliance with RIPA for the years 2021 and 2022;
- 1.3 Delegate responsibility to the Director: Policy & Governance to make any necessary amendments to the Council's RIPA Policy as a result of legislative changes or for administrative convenience.

2.0 Purpose of Report

- 2.1 The report seeks Cabinet approval for the revised Regulation of Investigatory Powers ('RIPA') policy which will govern how and in what circumstances these investigatory powers are used. Legislation governs strictly when it is and it is not appropriate. The revised policy seeks to streamline processes and clarify actions to ensure that the powers are used effectively and with complete transparency.

3.0 Background

- 3.1 Cabinet will note that Local Authorities have long had the power to undertake surveillance leading to concerns amongst the public and society about those powers being used a 'snooper's charter.' The Regulation of Investigatory Powers Act 2000 and its use has since been regulated more strictly to allay these concerns. The legislative changes in the Investigatory Powers Act 2016 were made to ensure that decision making about the use of covert surveillance powers are transparent, clear and that any surveillance undertaken in support of the Council's enforcement agenda is proportionate and legitimate.

4.0 Summary of main proposals

Revised RIPA Policy

- 4.1 The new draft policy at Appendix A sets out the ways in which the surveillance powers pursuant to the legislation may be exercised.
- 4.2 The three types of covert surveillance which the policy covers are Directed Surveillance, the use of Confidential Human Intelligence Sources ('CHIS') and Communications Data.
- 4.3 The new policy sets out the circumstances where it may be appropriate to consider the use of the Council's RIPA surveillance powers and the decision making hierarchy for doing so. It sets out the internal decision making as to whether an application should be made to the Magistrates Court for authorisation to undertake the surveillance requested.
- 4.4 It also reinforces the roles and responsibilities of the Head of Paid Service who is Senior Responsible Officer for the purposes of RIPA, the Director: Policy & Governance who has day to day management of the RIPA process and the Council's RIPA authorising officers.
- 4.5 All employees of the Council must comply with the Council's RIPA policy at all times during their work when considering the use of covert surveillance.

Reporting of the Use of RIPA in 2021 and 2022

- 4.4 The table below sets out the number of times that the Council has sought to exercise the use of its RIPA powers over the course of the last two years. It is a requirement of legislation and current Council policy concerning the use of RIPA that Councillors will be updated about the use of powers at least every two years.

	2021	2022
Use of Directed Surveillance or Covert Human Intelligence Sources	0	1
Number of Directed Surveillance Applications Rejected	0	0
Number of Directed Surveillance Applications Granted	0	1
Number of Authorisations Presented to Magistrates	0	1
Number of Authorisations granted by Magistrates	0	1
Number of Authorisations rejected by Magistrates	0	0
Number of Directed Surveillance Operations remaining extant	0	0

4.5 No applications for the disclosure of communications data were made during the above period.

5.0 Alternative Options

5.1 Cabinet could decide not to approve the draft revised policy, however the Council's current RIPA policy does not reflect current best practice. The draft revised policy seeks to provide clarification to Officers about the use of covert surveillance to ensure that the Council acts transparently and in full accordance with law.

6.0 Key Risks

6.1 Article 8 of the European Convention of Human Rights (incorporated in to UK Law by virtue of Human Rights Act 1998) provides for the Right to Privacy of the individual. It is only by complying with the policies and procedures contained within the legislation and policy that Officers can ensure they are acting in accordance with the law

7.0 Council Priorities

The recommendations in this report about the use of the Council's covert surveillance powers through its enforcement work, support the following Council priorities:

7.1 everyone benefits from a thriving economy;

7.2 all neighbourhoods are a great place to live;

7.3 our natural environment is protected, and the Council is taking a leading role in tackling the climate emergency; and

7.4 a community-focused, innovative council providing efficient, effective and quality services.

8.0 Financial Implications

8.1 There are no direct financial implications arising from this report. Enforcement activity and the use of covert surveillance are met through existing budgets.

9.0 Legal and HR Implications

9.1 The main legal provisions are set out within the body of the report and the Policy at Appendix A. The Council has a legal requirement to consider the use of its RIPA powers regularly. The new policy provides for best practice on the use of RIPA powers and will ensure that the Council meets its legal obligations to regulate the use of intrusive covert surveillance.

10.0 Ward Implications

10.1 There are no specific ward implications arising from this report.

11.0 Health, Social and Economic Implications

11.1 The use of the Council's RIPA powers assist the Council to detect and prevent fraud within the Borough and further afield.

12.0 Equality and Diversity Implications

12.1 Whilst there are no specific equality and diversity implications arising directly from this report, the Council and its officers will at all times ensure that the use of its covert surveillance powers are not used in ways which would not be in accordance with the Council's legal duties under the Equality Act 2010.

13.0 Climate Change and Environmental Implications

13.1 There are no specific climate change and environmental implications arising from this report.

14.0 Background Papers

None

15.0 Appendices

A Draft Regulation of Investigatory Powers Policy

16.0 Report Sign Off

Signed off by	Date sent	Date signed off	Initials
Legal	08/02/2023	08/02/2023	RP
Finance	13/01/2023	13/01/2023	MLB