

WELWYN HATFIELD BOROUGH COUNCIL  
STANDARDS COMMITTEE - 7 FEBRUARY 2022  
REPORT OF THE HEAD OF LAW AND ADMINISTRATION

**UPDATES TO THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)  
POLICY AND LIST OF AGREED AUTHORISING OFFICERS**

**1 Executive Summary**

- 1.1 Following recent staff changes, Standards Committee is asked to note and agree the updates to the RIPA authorising Officers and Senior Responsible Officer (SRO) shown below and to agree that the corporate RIPA policy is updated accordingly, as shown in Appendix A.

**2 Recommendation(s)**

- 2.1 For Standards Committee to note the changes detailed in this report.

**3 Explanation**

- 3.1 The council has powers to investigate a range of criminal offences and like all Local Authorities is able to utilise powers to undertake surveillance to assist with those investigations in certain prescribed circumstances.
- 3.2 As previously reported to Committee the use of these powers is governed by the requirements of law and the Council's own policy. Powers cannot be used without the agreement of a designated "Authorising Officer" and the approval of a Magistrate. In all cases the powers can only be used to investigate a specified offence and must be shown to be necessary and proportionate to the circumstances.
- 3.3 It is timely and necessary to make a number of updates to the list of Authorising Officers, as shown below and Standards Committee are asked to agree these updates and consequential amendments to the current policy as set out in appendix A.

Senior Responsible Officer

Amended to **Head of Law and Administration – Margaret Martinus**

Authorising Officer

Removal of Corporate Director (Public Protection, Planning and Governance)

All other designations remain the same as in previous versions of the policy.

- 3.4 Standards Committee should also be updated on two further matters.
- 3.5 Firstly, that the Investigatory Powers Commissioner's Office (IPCO), the Government Regulator for the use of RIPA by enforcing authorities, annual return has been submitted by the Council and that there were no authorisations issued by the Council in the period 1<sup>st</sup> January to 31<sup>st</sup> December 2021.
- 3.6 Secondly, that we received our IPCO inspection on 21<sup>st</sup> January 2022. The official inspection letter confirming the findings has yet to be received by the Council. However, the inspector found everything to be operating satisfactorily and confirmed that he would be writing to the Council on this basis.

- 3.7 The inspector did make some suggested best practice amendments to the RIPA policy and these amendments will be made to the policy, once the formal letter has been received.
- 3.8 The suggested amendments were:-
- web links to the Codes of Practice should go directly to these codes.
  - communications data- consider membership of the National Anti-Fraud network as they are a single point of contact for communications data.
  - rationalise references to confidential data and ensure that they are all linked in the policy.
  - reviews and renewals- amend to reflect Code that reviews must be carried out after three months. This is a mandatory requirement.
  - suggested insertion of role that IPCO fulfils in the statutory regime, within the policy.

#### **4 Legal Implication(s)**

The Regulation of Investigatory Powers Act (RIPA), as amended by the Protection of Freedoms Act and Investigatory Powers Act 2016 sets out the regulatory regime by which the council may use certain surveillance powers to investigate certain specified offences. There are strict controls in place and the council is unable to undertake any “covert surveillance” outside of this regime. Failure to comply with the legislation could result in legal challenge or challenge on the admissibility of evidence in Court.

#### **5 Financial Implication(s)**

- 5.1 A training budget is in place for authorising officer training.

#### **6 Risk Management Implications**

- 6.1 The risks related to this proposal relate to legal challenge and reputation, for example a significant court case collapsing owing to evidence collected through surveillance being ruled inadmissible. However, there are strict controls in place to govern the approval of any surveillance authorisations and the council does not carry out covert surveillance outside of the RIPA regime. Additionally, a staff training programme is in place and Heads of Service are asked to ensure relevant staff attend the training programme. RIPA compliance is also included as part of the management assurance statements which help comprise the annual governance statement and the Council is periodically audited by the Office of Surveillance Commissioners. An assessment of risk is therefore considered as impact: high, probability: low

#### **7 Security and Terrorism Implication(s)**

- 7.1 The RIPA regime is used by the Council to assist with the investigation of certain criminal offences. In addition, the Council will work, as required, with the police and other partners to facilitate the prevention, detection and investigation of crime.

#### **8 Procurement Implication(s)**

- 8.1 None

**9 Climate Change Implication(s)**

9.1 None

**10 Human Resources Implication(s)**

10.1 As previously reported to Committee the council has a RIPA training programme in place for staff including investigation officers, officers with access to IT systems and Authorising Officers.

**11 Health and Wellbeing Implication(s)**

11.1 None

**12 Communication and Engagement Implication(s)**

12.1 The nature of any covert surveillance undertaken by the council is by definition “covert” and therefore not in the public domain. However, for public confidence and transparency it is important that the Council shares its adopted RIPA policy and once updated this policy will be republished on the Council’s webpage.

**13 Link to Corporate Priorities**

13.1 The subject of this report is linked to the Council’s Corporate Priorities “our community”, “our environment”, “our housing” and “our council” and the statutory provisions under the Regulation of Investigatory Powers Act (RIPA), as amended.

**14 Equality and Diversity**

14.1 An Equality Impact screening assessment (EQIA) has not been carried out in connection with the proposals that are set out in this report as RIPA is an enforcement tool and an EQIA was carried out in connection with the council’s corporate enforcement policy which sets out our overall approaches to enforcement.

Margaret Martinus  
Head of Law and Administration  
RIPA Senior Responsible Officer

January 2022

Appendix A: Updated Corporate RIPA Policy