

Cabinet

30 April 2024

RIPA Policy Update Report

Portfolio Holder: Councillor Zoë Van Dyke, Portfolio Holder for Business Management

Report from: Bhupinder Gill, Assistant Director Legal and Governance

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Summary

This report provides Cabinet with an update on the RIPA ('the Regulation of Investigatory Powers Act 2000') Surveillance Policy following the recent inspection by the Investigatory Powers Commissioner's Office and asks Cabinet to adopt the updated policy following minor amendments being made post inspection.

1. Recommendations

- 1.1. The Cabinet is asked to adopt the updated policy and note the Inspector's Comments regarding the improvement in Medway's position.
- 1.2. The Cabinet is asked to note the use of powers for the years 2021 to 2023 inclusive as set out in paragraph 4.3.

2. Suggested reasons for decisions

- 2.1. To comply with the statutory regime regarding the use of surveillance powers.

3. Budget and policy framework

- 3.1. The RIPA policy forms part of the Council's policy framework.

4. Background

- 4.1. The Council was inspected regarding the adequacy of its policies and procedures in relation to RIPA ('the Regulation of Investigatory Powers Act 2000') in 2021, that inspection found a number of failings and a remedial action plan was implemented which included the adoption of a revised policy.
- 4.2. A follow up inspection took place in later 2023 with the Inspector's findings being received in January 2024. This noted a considerably improved position but suggested minor amendments to the policy. In order to ensure that the

policy remains up to date Cabinet is asked to adopt the revised policy with these minor amendments to prevent any negative impact on the Council's investigations and prosecutions.

4.3. During the years 2021, 2022 and 2023 the RIPA powers were not used by the Council.

5. Options

5.1. To adopt the amended policy, this would allow the Council to comply with the statutory regime and ensure that evidence gained with surveillance can be relied upon in potential future prosecutions. This is the recommended option.

5.2. To retain the policy in its current format, although the policy is broadly compliant, the Inspector has made suggestions to ensure it remains up to date.

6. Advice and analysis

6.1. It is recommended that Cabinet adopts the revised policy to ensure it is compliant with the statutory framework, failure to do so could have a negative impact on future prosecutions with evidence being excluded or unable to be relied upon.

7. Risk management

7.1. Risk management is an integral part of good governance. The Council has a responsibility to identify and manage threats and risks to achieve its strategic objectives and enhance the value of services it provides to the community.

Risk	Description	Action to avoid or mitigate risk	Risk rating
Prosecutions fail because of excluded evidence	Exclusion of evidence	Adopt the updated policy	B IV

For risk rating, please refer to the following table (please **retain** table in final report):

Likelihood	Impact:
A Very likely	I Catastrophic
B Likely	II Major
C Unlikely	III Moderate
D Rare	IV Minor

8. Consultation

8.1. There has been no consultation undertaken in respect of these minor changes.

9. Climate change implications

9.1. There are no climate change implications arising from this report.

10. Financial implications

10.1. There are no direct financial implications arising from this report, although failure to have adequate and up to date policy may leave to claims for compensation.

11. Legal implications

11.1 The Council is required to comply with the Regulation of Investigatory Powers Act 2000 ('RIPA') as amended in carrying out surveillance activities. Having an up to date policy ensures compliance with the statutory regime and empowers the Council to actively investigate matters such as under age sales of alcohol and tobacco.

Lead officer contact

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Appendices

Appendix 1 - Updated RIPA Policy

Background papers

[Outcome of Inspection Letter – January 2024](#)