

# Communities Committee

Item No.....

<b>Report title:</b>	<b>Regulation of Investigatory Powers Act 2000</b>
<b>Date of meeting:</b>	<b>17 January 2018</b>
<b>Responsible Chief Officer:</b>	<b>Victoria McNeill, Chief Legal Officer and Tom McCabe, Executive Director, Community and Environmental Services</b>
<b>Strategic impact</b> Since 2010 Cabinet and subsequently Communities Committee have received an annual report of the Council's use of RIPA and approved the Council's Policy and Guidance annually. This is the report for 2016/17.	

## Executive summary

This report details the use of RIPA by the Council for 2016/17 and summarises changes to the Council's Policy and Guidance.

### Recommendations:

- 1. Committee notes the use of RIPA by the Council for 2016 and 2017; and**
- 2. Committee approves the revised Policy and Guidance document for RIPA.**

## Proposals

### 1. Committee notes the use of RIPA by the Council for 2016 and 2017

1.1 A report setting out the RIPA authorisations obtained by the Council during 2016 and 2017 is attached at Appendix A.

1.2.1 The report gives the date, general purpose or reason for which authority was granted together with the grade of senior manager that granted the authority. It is not possible to give further details as this may breach confidentiality legislation, offend the sub-judice rules, interfere with the proper investigation of potential offenders, or disclose other operational information which could hinder past, current or future activities, investigatory techniques or investigations.

In summary, the total number of authorisations granted in this period were as follows:-

- Surveillance: 2
- Covert human intelligence source: 0 (see definition in paragraph 1.7 of the attached policy and guidance)

- Acquisition of communications data (Telecoms): 2

1.2.2 It can be seen from the information in Appendix A that, across the whole of the Council, the only activities covered by RIPA were authorised in relation to trading standards investigations.

## **2. Committee approves the revised Policy and Guidance document for RIPA**

2.1.1 The Council's revised Policy and Guidance is attached at appendix B.

2.2 The Policy and Guidance has been altered to take into account the minor revisions suggested by the Office of Surveillance Commissioners following its inspection of the Authority in October 2016. In particular, the section on test purchasing, online covert activity and social networking sites has been updated and repositioned within the main body of the document, rather than as an appendix. Appendix A has been updated to reflect changes to the Senior Responsible Officer and other authorising officers. The Appendices referring to forms have been removed and all forms will be available on the intranet. A few other minor alterations have also been made to reflect changes to relevant personnel. A reference has been added to the Investigatory Powers Act 2016.

## **3. Evidence**

3.1 The RIPA Orders and revised Codes of Practice set out expectations for local authorities in relation to the oversight of RIPA authorisations for Directed Surveillance and CHIS and for the acquisition of communications data. The recommendations set out in this report meet the requirements of the Orders and revised Codes of Practice. There are, therefore, no other reasonably viable options to the recommendations above.

## **4. Financial Implications**

4.1 There are no financial implications.

## **5. Issues, risks and innovation**

5.1 **Legal Implications:** The RIPA and associated regulations and orders set out the expectations for local authorities in relation to covert surveillance.

5.2 **Human Rights:** RIPA was enacted to ensure that, in conducting surveillance, public authorities have regard to the Human Rights Act 1998 and to Article 8 of the European Convention on Human Rights (the ECHR) – the right to a private and family life.

5.3 **Equality:** RIPA requires the authority's decision makers to take into account a person's human rights including any potential discrimination. Monitoring of the use of RIPA in relation to individuals could be considered for the future but is not considered necessary at this stage.

- 5.4 **Risks:** The RIPA Orders and revised Codes of Practice set out expectations for local authorities in relation to the oversight of RIPA authorisations and this report sets out how the authority can comply with these expectations. As such the risk associated with the actions set out in this report are low.

## 6. Background

- 6.1 A report by the Head of Law and Monitoring Officer and the Director of Environment Transport and Development was prepared for the Cabinet meeting on 13 September 2010. This report set out the background to the Regulation of Investigatory Powers Act 2000 (RIPA) and the Council's use of RIPA. At that meeting Cabinet agreed to receive an annual report of the Council's use of RIPA and to approve the Council's Policy and Guidance annually. Further reports were prepared for the Cabinet/Committee meetings on 5 May 2011, 11 June 2012, 7 October 2013, 19 November 2014 and 11 November 2015.

### Officer Contact

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## Appendix A

### RIPA AUTHORISATIONS 2016 - 17

NO.	DATE	NATURE OF AUTHORISATION	REASON FOR AUTHORISATION	GRADE OF AUTHORISING OFFICER	DEPT.
1.	08.03.16	Communications Data	Unfair trading practices	Assistant Director (David Collinson)	CES
2.	17.10.16	Directed Surveillance	Underage sale of tobacco	Section Manager (John Peddle)	CES
3.	22.06.17	Directed Surveillance	Underage sale of alcohol and tobacco	Section Manager (Shaun Norris)	CES
4.	31.08.17	Communications Data	Unfair trading practices	Planning Services Manager (Nick Johnson)	CES