

**REVISION OF THE COVERT SURVEILLANCE AND ACCESS TO  
COMMUNICATIONS DATA POLICY AND GUIDANCE NOTES**

<b>Final Decision-Maker</b>	Audit, Governance and Standards Committee
<b>Lead Head of Service</b>	Patricia Narebor, Head of Legal Partnership
<b>Lead Officer and Report Author</b>	Gary Rowland, Senior Lawyer Corporate Governance
<b>Classification</b>	Public
<b>Wards affected</b>	All

**Executive Summary**

This report seeks approval for the revised policy and guidance notes on Covert Surveillance and Access to Communications Data following the inspection of the Investigatory Powers Commissioner's Office ("IPCO") in January 2021. The revised policy incorporates the up-to-date guidance produced by the Surveillance Commission and the recommendations made by the inspector following the inspection.

**This report makes the following recommendation to the Committee:**

1. That the revised Covert Surveillance and Access to Communications Data Policy and Guidance Notes ("the Policy") be approved. Whilst no specific revisions were requested following the inspection, the following revisions have been made to ensure the policy is up-to-date:
  - a) page 5 has been amended to reflect where training records are stored and the frequency at which training should be delivered; and
  - b) page 5 has been amended as the Office of Surveillance Commissioners ('OSC') have been replaced by the Investigatory Powers Commissioners' Office ('IPCO').

**Timetable**

<b>Meeting</b>	<b>Date</b>
Corporate Leadership Team	15 June 2021
Audit, Governance and Standards Committee	28 July 2021

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## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. However, they support the Council's overall achievement of its aims by updating the Council's approach to RIPA as required by legislation and IPCO.	Principal Solicitor, Governance
<b>Cross Cutting Objectives</b>	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> <li>• Heritage is Respected</li> <li>• Health Inequalities are Addressed and Reduced</li> <li>• Deprivation and Social Mobility is Improved</li> <li>• Biodiversity and Environmental Sustainability is respected</li> </ul> <p>The report recommendation(s) supports the overall achievement(s) of all the cross-cutting objectives by ensuring that the Council is complying with statutory requirements when undertaking investigations and surveillance.</p>	Principal Solicitor, Governance
<b>Risk Management</b>	The risk implications are set out in section 5 of the report.	Principal Solicitor, Governance
<b>Financial</b>	The proposals set out in the recommendation are all within already approved budgetary headings and so need no new funding for implementation.	Principal Solicitor, Governance
<b>Staffing</b>	No additional staffing.	Principal Solicitor, Governance
<b>Legal</b>	Accepting the recommendations will fulfil the Council's duties under Regulation of Investigatory Powers Act 2000 and meets the requirements of IPCO.	Principal Solicitor, Governance

<b>Privacy and Data Protection</b>	No implications.	Principal Solicitor, Governance
<b>Equalities</b>	No implications.	Principal Solicitor, Governance
<b>Public Health</b>	No implications.	Principal Solicitor, Governance
<b>Crime and Disorder</b>	Accepting the recommendations ensures that the Council complies with its obligations under RIPA, which are important in the Council's role in controlling crime and disorder.	Principal Solicitor, Governance
<b>Procurement</b>	No implications.	Principal Solicitor, Governance

## 2. INTRODUCTION AND BACKGROUND

- 2.1 The Home Office Covert Surveillance and Property Interference Revised Code of Practice 2010 requires that the Council reviews its use of RIPA and reviews the policy at least once every two years.
- 2.2 Following the IPCO's inspection, which was carried out in January 2021 and subsequently followed up with a report, it became apparent that the guidance needed minor revisions. Previous recommendations made in 2018 to deliver appropriate training for authorising officers, update the Central Record, and revisions to the RIPA policy document, have been complied with and as such these recommendations have now been discharged. Further training is scheduled to be delivered to all Authorising/Key Officers in December 2021.
- 2.3 The IPCO's report made the following recommendations:
- 1) It would be of significant benefit to have in place regular, minuted, meetings between the SRO and the RIPA Coordinating Officer. Through this approach, a record can be created of matters discussed concerning RIPA compliance and on which you can then rely, if required, and which can be produced in future IPCO inspections.

The first of these meetings was carried out in February 2021 and will continue to take place on a quarterly basis, with minutes being recorded and filed in the Central Register.

The full Inspector's report is attached at Appendix A. The revised policy is at Appendix B.

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### **3. AVAILABLE OPTIONS**

- 3.1 To approve the actions proposed as set out in the recommendations of this report. This will address the recommendations within the IPCO's report and meets the Inspector's requirements. This option also proposes accepting the non-RIPA process.
- 3.2 The Committee could approve such additional or alternative actions that it deems appropriate, provided such actions meet the Inspector's requirements.
- 3.3 Do nothing. This option would result in the recommendations not being implemented. This is likely to result in an adverse critical report following the next IPCO inspection.

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### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 Option 1 is the preferred option as it would implement the Inspector's recommendations.

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### **5. RISK**

- 5.1 Currently the risk implications are low as the Council has not authorised any activity under RIPA for some time. However, there is risk of litigation and challenge if authorisations are incorrectly given in the future without proper understanding of the current requirements. The actions set out in the Inspector's report and recommended in this report will mitigate any such risks.

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### **6. REPORT APPENDICES**

The following documents are to be published with this report and form part of the report:

- Appendix A: Inspector's Report
  - Appendix B: Draft Covert Surveillance and Access to Communications Data Policy and Guidance Notes
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