



## Cabinet

6 February 2024

Councillor Philip Knowles, Cabinet Member for Corporate Governance and Licensing

# Regulation of Investigatory Powers Act Policy

### Report Author

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### Purpose of Report

To provide Cabinet with an opportunity to approve the Council's new Regulation of Investigatory Powers Act Policy and confirm the process for its annual review via the Governance and Audit Committee.

### Recommendations

#### That Cabinet:

1. Approves the new Regulation of Investigatory Powers Act Policy.
2. Recommends that the Governance and Audit Committee undertakes an annual review of the Council's Regulation of Investigatory Powers Act Policy.
3. Delegates authority to the Chief Executive to make any changes to the Policy following the externally facilitated training on RIPA scheduled to be held later this year if she deems that any element of the Policy could be strengthened, in consultation with the Cabinet Member for Corporate Governance and Licensing.

<b>Decision Information</b>	
Is this a Key Decision?	No
Does the report contain any exempt or confidential information not for publication?	No
What are the relevant corporate priorities?	Clean and sustainable environment High performing Council
Which wards are impacted?	All Wards

## **1. Implications**

Taking into consideration implications relating to finance and procurement, legal and governance, risk and mitigation, health and safety, diversity and inclusion, safeguarding, staffing, community safety, mental health and wellbeing and the impact on the Council's declaration of a climate change emergency, the following implications have been identified:

### ***Finance***

1.1 There are no financial implications arising from this report.

Completed by: Richard Wyles, Deputy Chief Executive and Section 151 Officer.

### ***Legal and Governance***

1.2 Legal and governance implications are covered in the body of the report.

Completed by: Graham Watts, Assistant Director (Governance and Public Protection) and Monitoring Officer

## **2. Background to the Report**

2.1 The Regulation of Investigatory Powers Act 2000 (RIPA) enables Local Authorities to carry out certain types of surveillance activity, as long as specified procedures are followed. The information obtained as a result of surveillance operations can be relied upon in court proceedings providing RIPA is complied with. Such activity can include:

- Directed Surveillance (covert surveillance conducted as part of a specific investigation likely to result in obtaining private information about an individual or individuals).

- Use of Covert Human Intelligence Sources (CHIS) (a person who maintains a personal or other relationship with a person for the covert purpose of obtaining or gaining access to information).

2.2 The Investigatory Powers Act 2016 (IPA) is the main legislation governing the acquisition of communications data. The information obtained as a result of these acquisitions can also be relied upon in court proceedings providing IPA is complied with. Full details of the RIPA requirements and compliance are set out in the new Policy which is attached at **Appendix A** to this report.

### **3. Key Considerations**

3.1 Authorisation for a RIPA follows a strict procedure governed by the Home Office, with a Senior Responsible Officer being designated as the Council's signatory in respect of any application to utilise RIPA. The Head of Paid Service (Chief Executive) is named as the Council's Senior Responsible Officer for RIPA.

3.2 Training on use of RIPA was provided to senior officers in March 2023 and further externally facilitated training is scheduled to be held in March/April 2024. Operational officers in frontline services who may undertake investigatory work as part of their roles also attend bespoke training sessions to ensure awareness of the Council's obligations associated with RIPA.

3.3 The Home Office publishes national Codes of Practice on the use of RIPA powers by Local Authorities which help to assess and understand whether, and in what circumstances, it is appropriate to use covert techniques to obtain information as part of investigatory operations. The codes also provide guidance on what procedures need to be followed in each case. The Council must have regard to the relevant Code of Practice whenever exercising powers covered by RIPA.

3.4 It is important that the Council continues to operate in accordance with RIPA to ensure that it can manage its reputational risks, whilst also exercising its legitimate evidence gathering powers in connection with enforcement activity when necessary.

3.5 RIPA is a mechanism rarely utilised by the Council and the application process must include significant justification for its use. In the last three years it has been used on one occasion at South Kesteven District Council in relation to a significant flytipping case which resulted in a successful prosecution.

### **4. Other Options Considered**

4.1 To retain the existing RIPA Policy.

4.2 To suggest any further amendments to the proposed RIPA Policy.

## **5. Reasons for the Recommendations**

- 5.1 The revised RIPA Policy ensures that the Council is compliant with the requirements of the Regulation of Investigatory Powers Act 2000 and Investigatory Powers Act 2016.

## **6. Appendices**

- 6.1 Appendix A – Draft RIPA Policy