

**Committee:** Cabinet

**Agenda Item**

**Date:** 12 January 2017

**9**

**Title:** Regulation of Investigatory Powers Act:  
Adoption of Policy

**Portfolio Holder:** Councillor Simon Howell

Key decision: No

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## **Summary**

1. The Council does not currently have a documented policy for the use of powers governed by the Regulation of Investigatory Powers Act (usually known as "RIPA").
2. The Home Office Code of Practice on Covert Surveillance and Property Interference states:  
  
"Elected members of a local authority should review the authority's use of the 2000 Act and set the policy at least once a year. They should also consider internal reports on use of the 2000 Act on a regular basis to ensure that it is being used consistently with the local authority's policy and that the policy remains fit for purpose."
3. This report proposes a policy for adoption. It also explains the nature of RIPA powers and covers the Council's use of them.

## **Recommendations**

4. That the policy in the Appendix to this report is adopted.
5. That the Chief Executive is given power to designate authorised officers for the purposes of RIPA.
6. That the Interim Head of Legal Services is designated the Senior Responsible Officer with oversight of the use of RIPA powers.

## **Financial Implications**

7. None

## **Background Papers**

8. None

## **Impact**

- 9.

Communication/Consultation	
Community Safety	Whilst use of RIPA powers is expected to be rare, their use in investigations when appropriate may contribute to community safety.
Equalities	Equalities issues are addressed in the body of the policy. It is important that RIPA powers are not used in a discriminatory way.
Health and Safety	None.
Human Rights/Legal Implications	The purpose of RIPA is to ensure that the exercise of investigatory powers is compatible with the European Convention on Human Rights. The adoption of the policy should help to ensure respect for human rights and the lawful exercise of investigatory powers.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	Training will be arranged for employees engaged in investigations.

## Situation

### ***What does RIPA do?***

10. RIPA places controls on the use of certain methods of investigation. In particular, it regulates the use of surveillance and “covert human intelligence sources”. (A covert human intelligence source is someone who uses a relationship with a third party in a secretive manner to obtain or give information – for instance an informer or someone working “under cover”.)
11. The use of powers under RIPA needs to be properly authorised within the Council and also needs approval by a magistrate.
12. RIPA surveillance powers are often characterised in the press as being “anti-terror” powers. This is incorrect. The principal objective of RIPA is to ensure that public bodies carry out investigations in a manner compatible with the European Convention on Human Rights – in particular the rights set out in Article 8: the right to respect for individuals’ private and family life and their home and correspondence.

### ***Supervision by the Office of Surveillance Commissioners***

13. The Office of Surveillance Commissioners (OSC) oversees the conduct of covert surveillance and covert human intelligence sources by public authorities. It is a tribunal non-departmental public body, sponsored by the Home Office. The Chief Surveillance Commissioner submits an annual report to the Prime Minister.
14. The OSC publishes guidance for public bodies and carries out inspections, reporting on their findings to the Chief Executive. Inspections are roughly on a three yearly cycle. The next inspection should take place in 2017.
15. The key requirements expected by the OSC are:
  - A policy on the use of RIPA set by elected members;
  - Training and guidance for staff;
  - The designation of a senior responsible officer with oversight of RIPA;
  - Documented evidence of compliance with legal and best practice requirements in the use of RIPA.

### ***Use of RIPA powers by Uttlesford District Council***

16. UDC has not used investigative powers regulated by RIPA since at least 2011. Nonetheless, there may be occasions on which their use would be appropriate. It is also important that employees are able to recognise the circumstances in which RIPA authorisation is needed.

### ***Training and officer oversight***

17. Training will be arranged for officers involved in investigatory work.
18. An officer working group has been set up to oversee compliance and training needs.
19. The Home Office Code of Practice recommends the designation of a senior responsible officer, responsible for the integrity of the authorisation process, compliance with RIPA legislation, OSC guidance and Home Office codes of practice, engagement with the Commissioners and inspectors when they conduct their inspections, and where necessary, overseeing the implementation of any post-inspection action plans recommended or approved by a Commissioner. Given the supervisory nature of this role, it would sit well with the Monitoring Officer/ Interim Head of Legal Services.
20. Authorising officers should be at Director or Head of Service level. Two authorising officers should be sufficient. The Executive is asked to give power to the Chief Executive to designate authorising officers.

## Risk Analysis

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Risk	Likelihood	Impact	Mitigating actions
Failure to comply with RIPA legislation and good practice, leading to breaches of human rights legislation.	3	2	The adoption of the policy annexed to this report backed up by training and awareness.
An adverse report by the Office of Surveillance Commissioners.	4	2	As above

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.