

## Annual review of the Regulation of Investigatory Powers Act 2000 (RIPA)

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### Purpose of the Report

1. The Council must have arrangements in place to ensure compliance with the Regulation of Investigatory Powers Act 2000 (“RIPA”). Those arrangements are subject to inspection by the Investigatory Powers Commissioners’ Office (“IPCO”). Compliance is demonstrated through the adoption of a policy and a set of procedures that adhere to the requirements of the legislation which are demonstrably followed. The Council has had arrangements and procedures in place for authorising and conducting surveillance since 2002. Members should review the policy and the use of RIPA at least once per year. They should also consider internal reports on use of RIPA periodically to ensure it is being used consistently with the policy and that the policy remains fit for purpose.

### Forward Plan

2. This report appeared on the District Executive Forward Plan with an anticipated Committee date of 7<sup>th</sup> April 2022.

### Public Interest

3. The Council has a Policy and set of procedures for authorising and conducting surveillance linked to the Council’s enforcement powers and these need to be reviewed and approved by the District Executive annually. It is important for the Council to be able to show that it is using its RIPA powers proportionately and in accordance with RIPA requirements.

### Recommendations

4. That members note the Council’s use of RIPA powers and amendments to the Policy and Procedures.

### Background

5. RIPA provides a statutory mechanism to make sure that the way investigatory powers are used by organisations such as local councils and government departments complies with human rights law, in particular the European Convention on Human Rights. The Council must have arrangements in place to ensure compliance and it is subject to inspection by the IPCO.



## South Somerset District Council

6. RIPA was introduced in order to provide the correct balance between an individual's right to privacy under human rights law and the proper use of data and surveillance by public authorities, who are entrusted to carry out certain enforcement duties. RIPA identifies certain areas where carrying out these enforcement duties will inevitably conflict with an individual's rights to privacy. The main areas which concern to the Council are:
  - The use of directed surveillance ; and
  - The use of covert human intelligence sources (CHIS).

### Report Detail

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7. Some of the Council's activities necessarily require surveillance as part of enforcement activity, for example in relation to benefit fraud, environmental health & protection, planning, licensing and fraud generally. However, the use of RIPA powers by the Council has been very limited (see **Appendix 1**). This summary shows there have only been two authorisations sought since 2008, which reflects the fact that the Council will generally use overt methods of investigation to obtain the necessary evidence that can be relied upon in a case, and that RIPA powers are used very much as a "last resort".
8. The Policy and Procedure was last before members in December 2020 and April 2021, following an inspection which took place in September 2020.
9. The Inspector commented that the Policy was "well written and accurate, requiring little alteration". The Inspector reiterated the need for members to receive both annual and regular RIPA covert surveillance reports to ensure they are kept aware of the level of RIPA activity/inactivity within the Council. Following his recommendations, changes were made to the policy and procedures and these were covered in the previous report. The policy has recently been updated to reflect changes in staffing, so that the list of authorising officers has been updated. There are currently two authorised officers, which is felt to be a sufficient number given our limited use of the powers to date. These authorising officers have both received training and should receive refresher training later this year.
10. The Portal has been used to raise awareness of RIPA, and this will be the mechanism by which officers and members are notified of any new Codes of Practice (most recent publication was September 2018). The Code of Practice for Covert Surveillance and Property Interference was updated to reflect changes introduced by the Investigatory Powers Act 2016, including the introduction of 'equipment interference warrants' under Part 5 of the 2016 Act. The current Code and the new Code for Covert Human Intelligence Sources (CHIS) both reflect the new oversight framework.

### Financial Implications

11. There may be a requirement for training additional officers in RIPA, the cost of which would have to be met from existing training budgets.

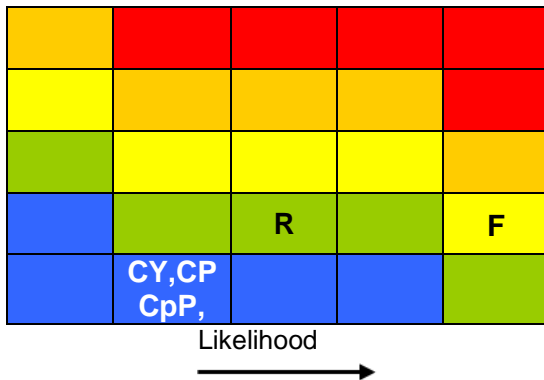
### Legal implications (if any) and details of Statutory Powers

12. These have been set out in the body of the report. In addition, it should be noted that surveillance investigations which are not authorised could leave the Council open to legal challenge by individuals who consider that there has been an intrusion of their privacy and could invalidate any enforcement action taken in reliance on them.

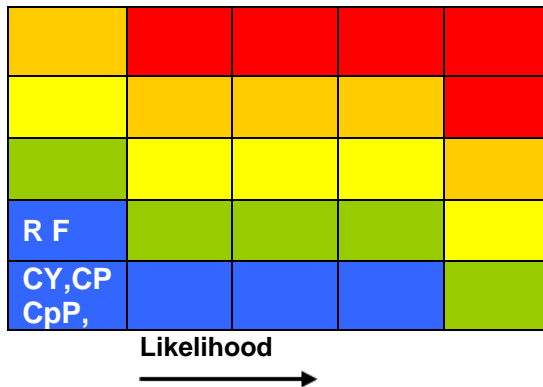
### Risk Matrix

13. The risk matrix shows risk relating to the Corporate Plan headings.

**Risk Profile before officer recommendations**



**Risk Profile after officer recommendations**



#### Key

Categories	Colours (for further detail please refer to Risk management strategy)
R - Reputation	High impact and high probability
CpP - Corporate Plan Priorities	Major impact and major probability
CP - Community Priorities	Moderate impact and moderate probability
CY - Capacity	Minor impact and minor probability
F - Financial	Insignificant impact and insignificant probability

### Council Plan Implications

14. Protection of Core Services

By ensuring continued compliance with RIPA we are continuing to be a modern efficient and effective Council that delivers for its community by;

- Delivering a high quality, effective and timely service to our customers and communities.
- Harnessing intelligence to ensure priorities are informed by evidence.

### Carbon Emissions and Climate Change Implications

15. There are no carbon emissions and climate change implications associated with this report.

### Equality and Diversity Implications



16. There are no equality and diversity implications associated with this report

<i>An Equality Impact Relevance Check Form has been completed in respect of the Proposal?</i>	Yes
<i>The Impact Relevance Check indicated that a full EIA was required?</i>	No
<i>If an EIA was <b>not</b> required please attach the Impact Relevance Check Form as an Appendix to this report and provide a brief summary of its findings in the comments box below.</i>	
<i>If an EIA <b>was</b> required please attach the completed EIA form as an Appendix to this report and provide a brief summary of the result of your Equality Impact Assessment in the comment box below.</i>	
<b>Additional Comments</b>	

## Privacy Impact Assessment

17. No direct privacy impacts arise from the decision members are being asked to take under this report. Personal data is highly likely to be involved when RIPA activity is undertaken and the Council's RIPA Policy and Procedures provide guidance to officers about the collection, use and storage of such data

## Background Papers

- RIPA Policy and Procedure
- Social Media Policy for RIPA - Appendix 5 to the Policy and Procedure
- Appendix 1 – report of RIPA authorities

## Appendix 1

<b>Year</b>	<b>No. Authorisations</b>	<b>Type of Authorisation</b>	<b>Service Requesting</b>
2008	0		
2009	0		
2010	1	Directed Surveillance	Benefit Fraud
2011	0		
2012	0		
2013	1	Communication Data	Environmental Services
2014	0		
2015	0		
2016	0		
2017	0		
2018	0		
2019	0		
2020	0		
2021	0		
2022	0(to date)		