

Eden District Council

Cabinet

14 February 2023

## Regulation of Investigatory Powers Act – Annual Update

<b>Portfolio:</b>	Resources
<b>Report from:</b>	Assistant Director Legal and Democratic Services (Monitoring Officer)
<b>Wards:</b>	All Wards
<b>OPEN PUBLIC ITEM</b>	

### 1 Purpose

- 1.1 To enable consideration to be given to an update on the use of the Regulation of Investigatory Powers Act 2000 ('RIPA') by Council officers.

### 2 Recommendation

It is recommended that

1. it be noted that there have been:
  - a) no authorisations sought or granted by the Council in the Regulation of Investigatory Powers Act 2001 between 1 January 2022 and 31 December 2022; and
  - b) no non-statutory authorisations for covert surveillance sought or granted by the Council between 1 January 2022 and 31 December 2022.
2. the revised Policy and Guidelines, which are attached to this report as Appendix 1 be adopted; and
3. it be noted that the Assistant Director Legal and Democratic Services will arrange appropriate training for authorising officers and officers who may potentially consider seeking authorisations for covert surveillance.

### 3 Report Details

- 3.1 The Investigatory Powers Commissioners Office ('the Commissioner') has oversight of the exercise of powers under the RIPA framework.
- 3.2 The Council is required to have a policy which sets out its approach to the Regulation of Investigatory Powers Act 2000 ('RIPA'). RIPA regulates covert surveillance by regulatory bodies including local authorities. The purpose of RIPA ensures that the rights of individuals are protected and considered in relation to covert surveillance operations.
- 3.3 There are two circumstances which are relevant to a local authority in applying RIPA. The first is the undertaking of covert Directed Surveillance and the second is the operating of a Covert Human Intelligence Source (CHIS).

Each circumstance only applies to the investigation of a criminal offence of significant severity. The Council is able to seek authority to undertake Covert Surveillance and the use of a CHIS in connection with the detection and investigation of criminal activity.

- 3.4 There have been no authorisations granted within the Council during the period 1 January 2022 to 31 December 2022.
- 3.5 The Council's Corporate Guidelines and Policy is required to be reviewed annually. The policy is a comprehensive document and provides detailed guidance on the application of the provisions.
- 3.6 There is attached to this report as Appendix 1 a draft revision to the Regulation of Investigatory Powers Act 2000, Corporate Guidelines and Policy. The changes that are suggested are not substantive.
- 3.7 The Council has recently been subject to a remote inspection by the IPCO. There were no recommendations arising from this inspection.
- 3.8 The inspection reviewed the Council's Policy and recognised this as a good document containing useful advice for staff.
- 3.9 It was noted that there have been no authorisations for covert surveillance or CHIS granted since 2012 and it is not anticipated that this situation will change in the immediate future. The Inspector acknowledged that the impending creation of the two new authorities in April 2023 gave some perspective to the requirement for maintaining training and awareness of staff and other requirements contained within the Act and Codes of Practice. Nevertheless the Council's policy will and does remain fit for purpose and the integrity of the Council's processes and governance procedures have been maintained to ensure high standards of compliance with the Act and the relevant Codes of Practice.
- 3.10 The Senior Responsible Officer has undertaken training and further training will be progressed for authorising officers and other staff.

## **4 Policy Framework**

- 4.1 The Council has four corporate priorities which are:
  - Sustainable;
  - Healthy, safe and secure;
  - Connected; and
  - Creative
- 4.2 This report meets the corporate priorities.

## **5 Consultation**

- 5.1 Not applicable.

## **6 Implications**

### **6.1 Financial and Resources**

- 6.1.1 Any decision to reduce or increase resources or alternatively increase income must be made within the context of the Council's stated priorities, as set out in its Council Plan 2019-2023 as agreed at Council on 7 November 2019.

There are no proposals in this report that would reduce or increase resources.

## **6.2 Legal**

6.2.1 The legal implications are contained within the body of the report.

## **6.3 Human Resources**

6.3.1 The Human Resources implications arising out of the proposal would be officer time in providing and/or attending the required training.

## **6.4 Environmental**

6.4.1 There are no environment implications.

## **6.4 Statutory Considerations**

<b>Consideration:</b>	<b>Details of any implications and proposed measures to address:</b>
Equality and Diversity	The policy will have to be applied taking account of all relevant circumstances including any equality implications.
Health, Social Environmental and Economic Impact	The policy will have to be applied taking account of all relevant circumstances included any social and environmental issues.
Crime and Disorder	The policy relates to the investigation of relevant crimes and is designed to enable the lawful investigation of crimes for which the Council is the prosecuting authority.
Children and Safeguarding	The policy will have to be applied taking account of all relevant circumstances including any children / safeguarding issues.

## **6.5 Risk Management**

<b>Risk</b>	<b>Consequence</b>	<b>Controls Required</b>
Risk to conduct of investigation and proceedings.	Adverse effects or comments in proceedings or a withdrawal of action or proceedings being compromised or adverse in monitoring the policy.	A thorough understanding of the policy and guidelines through adequate and appropriate training.
That the authority is hampered by the inability to use surveillance for offences or behaviour for which penalty is below the thresholds which would enable	Inability to investigate offences or anti-social behaviour or misconduct.	Policy allows the use of Non-RIPA Authorisations in such circumstances.

<b>Risk</b>	<b>Consequence</b>	<b>Controls Required</b>
use of a RIPA authorisation.		

## **7 Other Options Considered**

7.1 No other options have been considered.

## **8 Reasons for the Decision/Recommendation**

8.1 To enable consideration to be given to an annual update and revised policy.

### **Tracking Information**

<b>Governance Check</b>	<b>Date Considered</b>
<b>Chief Finance Officer (or Deputy)</b>	6 February 2023
<b>Monitoring Officer (or Deputy)</b>	27 January 2023

### **Background Papers:**

**Appendices:** Appendix 1 – RIPA Corporate Guidelines and Policy

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