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| Cabinet | Agenda Item: |
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| Meeting Date | 17 March 2021 |
| Report Title | Revisions to the Covert Surveillance and Access to Communications Data Policy |
| Portfolio Holder | Cabinet Member for Community – Cllr Richard Palmer |
| SMT Lead | Larissa Reed – Chief Executive |
| Lead Officer | Gary Rowland, Senior Lawyer Corporate Governance and RIPA Co-ordinating Officer |

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| Recommendations | 1. Cabinet to approve the revised Covert Surveillance and Access to Communications Data Policy |
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1 Purpose of Report and Executive Summary

- 1.1 The RIPA Co-ordinating Officer is required to review and revise the Council’s policy, where necessary, every two years to incorporate recommendations from the Investigatory Powers Commissioner’s Office (“IPCO”) following their latest inspection. Following a substantial revision to the policy in 2018, there are only a few minor suggested amendments to the existing policy. This report seeks approval of the revised policy on Covert Surveillance and Access to Communications Data (Appendix 1).

2 Background

- 2.1 The Home Office Covert Surveillance and Property Interference Revised Code of Practice 2010 makes it a requirement that the authority’s elected members should review the authority’s use of covert surveillance authorised under RIPA. This forms part of the Monitoring Officer’s annual report to the Standards Committee.
- 2.2 The IPCO carried out a telephone inspection with the RIPA Co-ordinating Officer in May 2020. The inspector was satisfied with the policy and processes in place and as such, confirmed that no physical audit would need to be carried out. The inspector made some recommendations as to how to improve future applications for RIPA which are shown in the attached inspector’s report (Appendix 2).
- 2.3 The policy (highlighted for ease of reference) has been revised as follows:

RIPA Senior Responsible Officer – pages 1, 4 and 10

- These sections have been revised to reflect that Larissa Reed (Chief Executive) is the current RIPA Senior Responsible Officer.

Co-ordinating Officer – page 5

- Section 5 has been revised to highlight that the RIPA training record will be kept as part of the Central Record.
- Section 6 has been revised to highlight that training will be provided in accordance with IPCO timeframes of at least once in every three-year period.

Central Record of all authorisations – page 11

- References to ‘urgency provisions’ have been removed at Section 2.7.3. Urgency provisions no longer apply and IPCO have requested that these be removed from both the policy and the Central Record.

- 2.4 There is a requirement under the Act that those that apply for and authorise the use of RIPA are appropriately trained once every three years. Training, provided by Act Now, was carried out in December 2018 which has resulted in all appropriate officers receiving the training necessary to carry out the requirements of the Act. The next training session is due to be arranged for November/December 2021 where specific focus will be given to the use of social media when carrying out surveillance.

3 Proposal

- 3.1 Cabinet are asked to approve the revised policy on Covert Surveillance and Access to Communications Data.

4 Alternative Options

- 4.1 There is no lawful alternative as the Council is required by the RIPA and associated Codes of Practice to have a policy, the contents of which are steered by the recommendations made by the IPCO following their inspection.

5 Consultation Undertaken or Proposed

- 5.1 The Portfolio Holder for Community has been consulted and has requested that following approval by SMT the matter be referred to Cabinet for final approval.

6 Implications

| Issue | Implications |
|---------------------------------------|---|
| Corporate Plan | No direct implications however the draft policy and guidance notes on Covert Surveillance and Access to Communications Data will enable the Council to carry out surveillance in line with our values. |
| Financial, Resource and Property | There will be a cost to the Council as all applying and authorising officers will need to undertake training once in every three years. |
| Legal and Statutory | Clear policy and guidance is necessary as failure to comply with the requirements of RIPA could lead to evidence in criminal proceedings not being admissible under the common law, section 78 of the Police and Criminal Evidence Act 1984 and the Human Rights Act 1998. It may also lead to proceedings being taken against the Council under the Human Rights Act 1998. |
| Crime and Disorder | The appropriate use of RIPA will enable the Council to provide evidence to support prosecutions in the public interest and tackle crime. |
| Risk Management and Health and Safety | Compliance with the draft policy and guidance notes, together with the necessary training, will minimise the risks involved in carrying out covert surveillance and the associated risk of having critical information treated as inadmissible. |
| Equality and Diversity | The policy treats all groups equally. |
| Sustainability | None identified at this stage |
| Health and Wellbeing | None identified at this stage |
| Privacy and Data Protection | No personal information is provided as part of the report. |

7 Appendices

Appendix 1 – Covert Surveillance and Access to Communications Data Policy
Appendix 2 – IPCO Inspector's Report

8 Background Papers

None