

Policy and Resources Committee	
Meeting Date	22 March 2023
Report Title	Revisions to the Covert Surveillance and Access to Communications Data Policy and Guidance Notes
EMT Lead	Larissa Reed - Chief Executive
Head of Service	Claudette Valmond – Head of Mid-Kent Legal Services
Lead Officer	Gary Rowland – Senior Legal Advisor and RIPA co-ordinating Officer
Classification	Open
Recommendations	1. That the revised Covert Surveillance and Access to Communications Data Policy and Guidance Notes set out at Appendix I ('the Policy') be approved.

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 year. Apart from grammatical and formatting revisions, there are only a few minor suggested amendments to the existing policy which are set out at section 2. This report seeks approval of the Policy, set out at Appendix I.

2 Background

2.1 The Home Office Covert Surveillance and Property Interference Revised Code of Practice 2018 makes it a requirement that the authority's elected members should review the authority's use of covert surveillance authorised under RIPA at least once a year. This forms part of the Monitoring Officer's annual report to the Standards Committee.

2.2 The Policy, which has been highlighted for ease of reference, has been revised as follows:

- Page 1 - The Scope has been expanded to include further detail on the specific types of surveillance covered within the Policy and highlight that the Policy is supplementary to other legislation and guidance;
- Page 2 – The Contents page has been revised to include sub-headings;
- Page 3 – Whilst the Policy references the Regulation of Investigatory Powers Act 2000 and the Investigatory Powers Act 2016 throughout, links to these Acts have been added;
- Page 6 – Section 1.15(d) has been revised to highlight potential risks;
- Page 7 – Section 1.27 has been revised in relation to asking members of the public to record information on the Council's behalf;

- Page 9 – Section 1.33 has been revised to include more up to date social networking sites;
- Page 9 – Section 1.35 has been revised to highlight potential risks; and
- Page 10 – Section 2.4. That Emma Wiggins be appointed the Deputy Senior Responsible Officer to act in the absence of the Senior Responsible Officer. The current Authorising Officers referred to in the Policy remain unchanged.

3 Proposals

3.1 That the Policy and Resources Committee approve the revised Policy.

4 Alternative Options Considered and Rejected

4.1 Doing nothing is not an option as the Council is required by the Regulation of Investigatory Powers Act 2000 and associated Codes of Practice to have a Policy in place. The content of the Policy is steered by the recommendations made by the Investigatory Powers Commissioner's Office.

5 Consultation Undertaken or Proposed

N/A

6 Implications

Issue	Implications
Corporate Plan	No direct implications however the revised Policy will enable the Council to carry out surveillance in line with its 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, Statutory and Procurement	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.
Environment and Climate/Ecological Emergency	None identified at this stage.

Health and Wellbeing	None identified at this stage.
Safeguarding of Children, Young People and Vulnerable Adults	None identified at this stage.
Risk Management and Health and Safety	Compliance with the Policy, 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	This Policy treats all groups equally.
Privacy and Data Protection	No personal information is provided as part of this report.

7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Covert Surveillance and Access to Communications Data Policy and Guidance Notes

8 Background Papers

N/A