

# Regulations of Investigatory Powers Act 2000 (RIPA) Policy & Procedure Guidance for 2018-2019 & Annual report on the use of RIPA IN 2017.

**Cabinet Meeting - 18 September 2018**

Report Author	<b>Trevor Kennett, Head of Operational Services</b>
Portfolio Holder	<b>Cllr Savage</b>
Status	<b>For Determination</b>
Classification:	<b>Open</b>
Key:	<b>Non-key</b>
Wards:	<b>All</b>

**Executive Summary:**

The adopted RIPA Policy & Procedure Guidance requires the Cabinet to receive an annual report on the use made of RIPA powers in the previous year. It is also timely to review the RIPA Policy & Procedures Guidance 2018/19 at the same time to reflect any recent practice or legislative changes.

**Recommendation(s):**

To approve the amended RIPA Policy & Procedure Guidance and to note the use of RIPA by the authority in 2017.

**CORPORATE IMPLICATIONS**

<b>Financial and Value for Money</b>	There are no financial implications to this report. Any financial implications identified as a result of this report will be covered by existing budgets.
<b>Legal</b>	<p>The Regulation of Investigatory Powers Act 2000 ('RIPA') provides a statutory mechanism (i.e. in accordance with the law) for authorising covert directed surveillance operations or the use of a 'Covert Human Intelligence Source' (CHIS) (an undercover agent).</p> <p>Failure to comply with RIPA could result in the exclusion by a court of evidence needed to convict a criminal. Failure to comply with RIPA also risks claims from individuals seeking compensation for alleged breaches of privacy.</p>
<b>Corporate</b>	<p>Priority 1: A clean and welcoming environment</p> <ul style="list-style-type: none"> <li>● Keeping streets, parks and open spaces clean for residents and visitors.</li> </ul>

	<ul style="list-style-type: none"> <li>• Maintaining zero tolerance to encourage positive behaviour to help improve our environment.</li> </ul> <p>Priority 2: Supporting neighbourhoods</p> <ul style="list-style-type: none"> <li>• Continuing to work with partners to improve community safety.</li> </ul>
<b>Equality Act 2010 &amp; Public Sector Equality Duty</b>	It is the author's opinion that the Public Sector Equality Duty (PSED) is not engaged by the subject matter. In accordance with the continuing nature of the Duty the Council will keep the matter under review

<b>CORPORATE PRIORITIES (tick those relevant) ✓</b>	
A clean and welcoming Environment	✓
Promoting inward investment and job creation	
Supporting neighbourhoods	✓

<b>CORPORATE VALUES (tick those relevant) ✓</b>	
Delivering value for money	✓
Supporting the Workforce	✓
Promoting open communications	

## 1.0 Introduction

- 1.1 The Regulation of Investigatory Powers Act 2000 ('RIPA') provides a statutory mechanism (i.e. in accordance with the law) for authorising covert directed surveillance operations or the use of a 'Covert Human Intelligence Source' (CHIS) (an undercover agent).
- 1.2 By requiring directed covert surveillance operations or the proposed use of a CHIS to be authorised in advance and kept under review by a limited number of senior officers, RIPA seeks to ensure that any interference with an individual's right to privacy under Article 8 of the Convention on Human Rights and Fundamental Freedoms, is both necessary and proportionate.
- 1.3 RIPA, as amended by the Protection of Freedom Act 2012 also imposes three further important restrictions on the Council. Firstly, it provides that the Council cannot under any circumstances engage in the most intrusive form of covert surveillance (called 'intrusive surveillance') - operations which involve the presence of a person or a listening device in residential premises or a private vehicle. Therefore, by definition, the Council can only carry out covert, non intrusive surveillance (called 'directed surveillance'). Secondly, the only lawful basis on which the Council can conduct a surveillance operation is for the prevention or detection of a criminal offence that attracts a sentence of imprisonment of six months or more or a criminal offence that relates to the under age sale of alcohol or tobacco. Thirdly, every authorisation given pursuant to RIPA to carry out directed surveillance or for the use of CHIS must also be approved by the Magistrates Court before it can be acted on - as must any renewal of an authorisation.

## 2.0 Investigatory Powers Commissioner's Office (IPCO)

- 2.1 The IPCO provides independent oversight of the use of investigatory powers by intelligence agencies, police forces and other public authorities.

2.2 The Investigatory Powers Commissioner, Lord Justice Fulford, and his Judicial Commissioners are responsible for overseeing the use of investigatory powers by public authorities which include law enforcement, the intelligence agencies, prisons, local authorities and other government agencies (e.g. regulators).

### **3.0 Council RIPA Inspection**

3.1 On the 26 February 2017 the IPCO (formally the Surveillance Commissioners Office) inspected the Council's RIPA Policy and Procedures Guidance and our use of the RIPA legislative tools and powers.

3.2 The IPCO concluded that Thanet District Council's RIPA policy and procedure guidance was up to date and in order and our use of the RIPA powers were correct and all being carried out in accordance with the legislation, as a result of this successful inspection the IPCO will not inspect the Council again until 2020.

### **4.0 Authorisations in 2017 and Policy for 2018/19**

4.1 The current RIPA Policy & Procedure Guidance commits the Senior Responsible Officer to inform Cabinet annually of the use of RIPA authorisations by Council Officers and for the Cabinet to approve any amendments to the Policy & Procedure Guidance.

4.2 In 2017 the Council never sought authorisation to use a Covert Human Intelligence Source (CHIS).

4.3 In 2017 2 RIPA applications were authorised by the Council's Authorising RIPA officers for covert directed surveillance and sent to Court for Judicial approval. These applications were for criminal offences such as fly-tipping.

4.4 In 2017 1 Non RIPA application was authorised for the collection of data. This small number of RIPA applications reflects the fact that nearly all enforcement activity by Council Officers is overt and does not require prior authorisation.

4.4 So far as Policy for 2018/19 is concerned, Cabinet is asked to consider and approve Appendix 1 - RIPA Policy & Procedures Guidance 2018/19. The proposed amendments to the Policy are italicised and underlined and can be found in the following sections:

- Section 1A - 1.11, 1.12 & 1.14
- Section 2 - 2.14
- Section 4 - 4.1.16
- Section 6 - 6.1

Contact Officer(s):	Trevor Kennett, Head of Operational Services & Corporate RIPA Gatekeeper
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### **Annex List**

Annex 1	RIPA Policy & Procedure Guidance Note 2018/19
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## Corporate Consultation

<b>Finance</b>	Ramesh Prashar, Head of Financial and Procurement Services
<b>Legal</b>	Tim Howes, Director of Corporate Governance