
NON-EXEMPT

HAVANT BOROUGH COUNCIL

AUDIT & FINANCE COMMITTEE

28 July 2022

REGULATION OF INVESTIGATORY POWERS ACT (RIPA) POLICY

FOR DECISION

Portfolio Holder: Cllr Denton

Key Decision: No

Report Number: HBC/071/2022

1. Purpose

- 1.1. This paper is submitted to Audit & Finance Committee for approval of the Regulation of Investigatory Powers Act (RIPA) Policy.

2. Recommendation

- 2.1. Members are requested to approve the RIPA Policy

3. Executive Summary

- 3.1. The policy ensures compliance with the regulatory framework for the use of covert surveillance by Havant Borough Council as set out in the Regulation of Investigatory Powers Act 2000 and RIPA (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (amended 2012) and the Investigatory Powers Act 2016. The policy is required to be reviewed and approved annually.

- 3.2. Havant Borough Council expects this policy to be rarely used. The Council will seek to minimise the use of covert surveillance and will use overt methods of obtaining required information wherever possible.
- 3.3. A limited number of trained officers, as referred in the policy, are able to approve applications to a magistrates' court to authorise a RIPA operation.
- 3.4. The Council has not made use of RIPA powers during 2021/22 financial year.
- 3.5. A recent inspection (June 2022) was carried out by the Investigatory Powers Commissioners Office (ICPO) following the previous inspection in 2017. The inspection confirmed that all previous recommendations from 2017 had been completed and the updated Policy reflected these recommendations and was in good order. The next inspection is likely to be held in three years time.

4. Additional Budgetary Implications

- 4.1. None.

5. Background and relationship to Corporate Strategy and/or Business Plans

- 5.1. The RIPA policy clearly explains the type of surveillance the Council and cannot undertake and also explains those limited circumstances where covert surveillance may be appropriate.
- 5.2. The Policy ensures compliance with the regulatory framework for the use of covert investigatory techniques by Havant Borough Council as set out in the Regulation of Investigatory Powers Act 2000 and RIPA (Directed Surveillance and Covert Intelligence Sources (CHIS) Order 2010 (amended 2012) and the Investigatory Powers Act 2016.
- 5.3. Havant Borough Council expects the Policy to be rarely, if ever, used and will seek to minimise use of covert surveillance wherever possible using overt methods of obtaining required information whether that alternative is possible.

5.4. The Investigatory Powers Act 2016 (IPA), which came into force for local authorities 11 June 2019, is the main legislation governing the acquisition of Communications data and therefore needs equal billing with RIPA. IPA brings together relevant new powers but does not fully replace pre-existing RIPA legislation. RIPA relates to directed surveillance and to CHIS and IPA relates to communications data acquisition. Similar to RIPA, IPA is unlikely to be used, if ever.

6. Options considered

6.1. Not applicable

7. Resource Implications

7.1. Financial Implications – none

7.2. Human Resources – none.

7.3. Information Governance Implications – None directly, but the policy document contains clear guidance on how authorisation records and surveillance products will be managed with clear timeframes and identified responsible owners.

7.4. Other resource implications – none.

8. Legal Implications

8.1. The Council must follow the Regulation of Investigatory Powers Act requirements should it wish to enact covert directed surveillance or use CHIS.

Monitoring Officer comments

Date: 7 July 2022

The attached policy has been endorsed by the Chief Surveillance Inspector of IPCO as being in good order. The inspection report has also commended the quality of the Central Record with added columns to record review, retention and destruction processes. The inspector was also supportive of there being a small cadre of authorising officers (three) and was generally praising of the calibre, role and influence of the officers as demonstrated at inspection and in the presentation of evidence. This is a positive assurance from an external body of statutorily required processes.

9. Risks

- 9.1. The policy needs to be in place so that staff are aware of the procedure required to follow.

10. Consultation

- 10.1. The draft policy has been shared at the recent RIPA inspection of which the Inspector made some suggested amendments, all of which have been incorporated and the Inspector confirmed that changes had been made and the policy was satisfactory.

11. Communication

- 11.1. Once approved by Audit Committee the final version will be published on the HBC website.

12. Appendices

- 12.1. Appendix A – Regulation of Investigatory Powers Act (RIPA) Policy and supporting appendices to the policy

13. Background papers

- 13.1. None.

Agreed and signed off by:

Executive Head: Matt Goodwin: 7 July 2022

Monitoring Officer: Mark Watkins: 7 July 2022

Section 151 Officer: Malcolm Coe: 7 July 2022

Cabinet Lead: Cllr Tony Denton: 12 July 2022

