

**Report to:** Cabinet

**Date of Meeting:** 4<sup>th</sup> June 2018

**Report Title:** Regulation of Investigatory Powers Act 1996 (RIPA)

**Report By:** Chris Barkshire-Jones Chief Legal Officer, Monitoring Officer  
and Senior Responsible Officer (RIPA)

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### **Purpose of Report**

To up-date the Council's RIPA policies and procedures.

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### **Recommendation(s)**

1. Cabinet approve the refreshed RIPA policy and procedures.
2. Delegated Authority be given to the Chief Legal Officer in consultation with the Lead Member to make any necessary changes to the documentation.

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### **Reasons for Recommendations**

Every three years Councils are visited by the Officer of Surveillance Commissioners to ensure that RIPA policies and procedures comply with the law. It is necessary for council staff to be aware of the policies and procedures and to receive necessary training.

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## Introduction

1. Hastings Borough Council was visited by an Assistant Surveillance Commissioner, Sir David Clarke on the 2<sup>nd</sup> June 2015. He interviewed various staff and checked the Council's Central Register for RIPA applications. He also checked and commented on the Council's RIPA policies and procedures.
2. The Council received his inspection report on the 17<sup>th</sup> June 2015. The recommendation in the report which was largely complimentary was for the Council to amend its Corporate RIPA policy and procedures to reflect suggestions made at paragraphs 13 and 14 of the report.
3. These were to make the definition of Covert Human Intelligence Source (CHIS) more complete and to include some information within the policy on how the Council deals with the use of the internet and social media sites in investigatory work.

## Post- Inspection

4. The Council instructed an external consultant to undertake an audit in October 2015 of various departments within the Council. This was with the view of ensuring that services were using the intranet with consideration of justification and intrusion issues. Services were encouraged to speak openly about how they used the Intranet.
5. On the spot training was given on what needs to be considered when using social media to gain information. The consultant also provided the Council with other areas of concern, these were;
  - Data Protection issues re the verbal exchange of information to the police
  - The need for a procedural document for those wearing body worn cameras and clear instructions to staff
  - Deployment of Noise Equipment – A short procedure note should be available for staff what the requirements are and that they complete a privacy impact assessment and record their findings.
  - Wardens using mobile phones to obtain evidence e- either restrict or amend policies to accommodate
  - Waste – the Council's mobile CCTV cameras need to be brought into current policies and procedures
  - CCTV outside of the control room (like customer services)
  - Generally, the maintaining of digital images
  - Internet and social media enquiries – Record the life of the search, consider carrying out a privacy impact assessment.
  - Internet Training – consider training staff
6. Our response to the above has been as follows;

- Sharing Data with the police is carried out in compliance with Data Sharing Agreements between the two parties.
  - The Council are not yet using body worn cameras although they intend to do so in the near future. Before implementation a written policy needs to be approved by the Assistant Director Environment & Place and the Senior Responsible Officer for RIPA.
  - Since the Audit the Noise Nuisance Recorder Deployment procedure has been put in place and the Noise Nuisance Recorder Privacy Impact Assessment.
  - Enforcement officers are not to use mobile phones to gather evidence but use cameras provided for that purpose.
  - Mobile CCTV cameras are no longer used by waste enforcement officers.
  - CCTV cameras outside of the control room has correct signage.
  - A policy has been written for the maintaining of digital images. An external consultant has approved it. Both Environmental Health and Wardens are using it. It will be rolled out corporately.
  - The Audit and training that was carried out in 2015 investigated how staff were using the internet and what for. A new form has been appended on the NON-RIPA policy for staff to record any search. This is to be kept on their file. It may be necessary for staff to conduct a privacy impact assessment when considering a social media search. Guidance on privacy impact assessments is provided within the ICO's Guidance on GDPR at Page 85. Staff are only to use HBC addresses when conducting a search. The Social Media policy was refreshed and approved by Cabinet in 2017.
  - We are currently looking to see if there is any e-training for all staff regarding internet searches. This is one area of training that will be carried out
7. Furthermore, we have devised the following audit sheet for those officers using social media for investigative purposes. This should be completed and kept on file to record issues of necessity, proportionality and collateral intrusion. Training will be given to all staff on RIPA policies and procedures and the including social media. The Council's social media policy was refreshed in 2017 and has been approved by Cabinet.
  8. RIPA training was attended by 26 officers over 3 days in November 2015 and most services attended an audit/training seminar over two days in September 2016
  9. The RIPA policy and procedures has been refreshed discharging the recommendation given to the Council by the Office of Surveillance Commissioners

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## Wards Affected

Insert the list of wards affected None

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## Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness

Crime and Fear of Crime (Section 17)

Risk Management

Environmental Issues

Economic/Financial Implications

Human Rights Act

Organisational Consequences

Local People's Views

Anti-Poverty

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## Additional Information

RIPA Policy Procedure (2018)

Appendix 1 - RIPA List of Authorising Officers (2018)

Appendix 2 - Flow Chart for Directed Surveillance (2018)

Appendix 3a - Application for authorisation to carry out directed surveillance (2018)

Appendix 3b - Review of a directed surveillance authorisation (2018)

Appendix 3c - Renewal of a directed surveillance authorisation (2018)

Appendix 3d - Cancellation of a directed surveillance authorisation (2018)

Appendix 4 - RIPA flow Chart for CHIS (2018)

Appendix 5a - Application for authorisation of the conduct use of a covert human intelligence source (2018)

Appendix 5b - Review of a covert human intelligence source authorisation (2018)

Appendix 5c - Renewal of a covert human intelligence source authorisation (2018)

Appendix 5d - Cancellation of an authorisation for the use or conduct of a covert human intelligence source (2018)

Appendix 6 - RIPA Flow Chart (2018)

Appendix 7 - RIPA Home Office code of practice (2014)

Appendix 8 - CHIS Home Office code of practice (2014)

Appendix 9 - Protection of Freedoms Act 2012 - changes to the provisions under the RIPA Act 2000 (2012)

Appendix 10 - RIPA Internet Research Form (2018)

Non RIPA Surveillance Procedure 2018

Non-RIPA Application for a Directed Surveillance (2018)

Non-RIPA Cancellation of a Directed Surveillance (2018)

Non-RIPA Flow Chart (2018)

Non-RIPA List of Authorising Officers - Directed Surveillance (2018)

Non-RIPA Renewal of a Directed Surveillance (2018)

Non-RIPA Review of a Directed Surveillance (2018)

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**Officer to Contact**

Officer Name Chris Barkshire-Jones  
Officer Email Address cbarkshire-jones@hastings.gov.uk  
Officer Telephone Number 01424 451731

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