

**Public**  
**Key Decision – No**

## **HUNTINGDONSHIRE DISTRICT COUNCIL**

**Title/Subject Matter:** Use of Surveillance Under The Regulation of Investigatory Powers Act (RIPA) – Inspection Report Update

**Meeting/Date:** Corporate Governance Committee – 25th September 2024

**Executive Portfolio:** Executive Councillor for Resident Services and Corporate Performance

**Report by:** Katie Kelly – Revenues and Benefits Manager

**Ward(s) affected:** All

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### **Executive Summary:**

As part of the governance arrangements for the Council's use of covert surveillance under the Regulation of Investigatory Powers Act (RIPA), the Council is subject to periodic inspections by the Investigatory Powers Commissioner's Office (IPCO).

An inspection was conducted on 20<sup>th</sup> June 2024 and the following report details the actions the Council intends to take in response to recommendations received.

### **Recommendation(s):**

The Corporate Governance Committee is invited to comment on the content of this report and the activities planned.

## 1. PURPOSE OF THE REPORT

- 1.1 This report provides details of the Council's recent inspection by the Investigatory Powers Commissioner's Office (IPCO) and the recommendations received. It also details the follow up actions to be taken by the Council.

## 2. WHY IS THIS REPORT NECESSARY/BACKGROUND

- 2.1 The Regulation of Investigatory Powers Act 2000 (RIPA) governs the use and method of covert surveillance carried out by public authorities.

- 2.2 Covert Surveillance is defined within RIPA as follows:

*Surveillance is covert if it is carried out in a way that ensures the subject is unaware that it is taking place.*

Further guidance provided on the IPCO website includes that:

*Covert surveillance may include monitoring, observing or listening to people, their movements, conversations or other activities and communications. It may be conducted with or without the assistance of a surveillance device and includes the recording of any information obtained.*

- 2.3 Local Authorities are permitted to gather information covertly to support their investigation and enforcement activities via three different techniques:

- Directed Surveillance. This is surveillance which is covert and is undertaken for the purposes of a specific investigation which is likely to result in the obtaining of private information about a person (targeted or otherwise);
- Use of a Covert Human Intelligence Source (CHIS). This would relate to an undercover operation whereby an informant or officer establishes or maintains some sort of relationship in order to obtain private information;
- Obtaining Communications Data. This is limited to information such as telephone billing information or subscriber details, and does not permit Local Authorities to intercept content of communication data nor internet records

- 2.4 These investigatory powers can only be used for specific purposes, such as the detection or prevention of a serious crime, and the Council can only undertake covert surveillance under RIPA if the proposed activity is authorised by one of the Council's Authorising Officers and subsequently approved by the Magistrates' Court.

- 2.5 To ensure that Local Authorities comply fully with the law when exercising investigatory powers, the Council is subject to periodic inspections conducted by IPCO.

2.6 The Council was inspected on 20<sup>th</sup> June 2024 and the subsequent report can be found in APPENDIX A.

### **3. OPTIONS CONSIDERED / ANALYSIS**

3.1 As part of the inspection into the Council's use of surveillance powers, discussions were held with key personnel from across the organisation, including the Chief Executive and Chief Operating Officer, alongside representatives from Community Services, Revenues & Benefits, and the CCTV team.

3.2 The Inspector reviewed the Council's policies, documentation and record-keeping, particularly in relation to two occasions where directed surveillance had been conducted since the previous inspection.

3.3 The inspector also reviewed the Council's approach to using social media and open-source internet to gather information to support the Council with its regulatory and enforcement functions.

3.4 A report has been provided by the Investigatory Powers Commissioner, detailing the findings of the Inspector. It was noted that the Council demonstrated good processes regarding record keeping, including the retention, review and destruction of items, and the Council's policy relating to RIPA was confirmed to set out the situation well. It was also noted within the report that :

*"...my Inspector was impressed at the professional attitude that was displayed with regards to compliance with the legislation available to the Council".*

3.5 During the inspection some areas where the Council could take action to improve and enhance its approach were discussed. These included:

- administrative amendments to the Council's RIPA policy, including the removal of some references to guidance and legislation and the addition of review periods for CHIS material and any other product gained via use of the powers
- The inclusion of more detailed information on RIPA applications covering Collateral Intrusion, Proportionality, feasibility studies regarding equipment used, review dates and cancellations
- Guidance for CCTV operators on the ongoing monitoring of offenders to ensure activity does not inadvertently stray into the realms of unauthorised surveillance.

3.6 As a result of the discussions and recommendations, activities are planned as follows:

<b>Training &amp; Awareness</b>		
Recommendation	Response	Completion Date
Review of awareness training and updates across the organisation, plus ongoing training for key personnel including Investigators, Authorising Officers and CCTV Team	The services of a specialist third-party trainer are being engaged to help deliver training and awareness events.	December 2024
Guidance to be provided to CCTV team regarding unauthorised surveillance	Written guidance to be issued to CCTV operators	September 2024
<b>Policy &amp; Record Keeping</b>		
Recommendation	Response	Completion Date
Review of RIPA applications to ensure more comprehensive information is detailed, including information pertaining to collateral intrusion and proportionality	Prompts added to RIPA application form to set out requirement for specific information to be included in all applications	August 2024 - Complete
Review of RIPA policy to ensure references to legislation and Codes of Practice are relevant and accurate, to include review and retention periods for CHIS and other product gained	The services of a specialist third-party trainer are being engaged to review the policy in line with the recommendations and also to ensure the document format is easy to understand to aid compliance	December 2024

#### **4. KEY IMPACTS / RISKS**

- 4.1 RIPA legislation is designed to balance the need for surveillance with the protection of individual rights to privacy. Compliance with the legislation ensures that surveillance activities are transparent and subject to appropriate scrutiny, and offers protection against legal challenges that may be brought on the basis of infringement of Human Rights (the right to privacy).
- 4.2 Failure to comply with the RIPA Codes of Practice could render any evidence gathered as inadmissible in court.
- 4.3 The next inspection is scheduled to take place in 2027.

#### **5. LINK TO THE CORPORATE PLAN, STRATEGIC PRIORITIES AND/OR CORPORATE OBJECTIVES**

- 5.1 The use of covert surveillance powers supports the Council's investigatory and enforcement function. These are used to detect and prevent serious crimes which may have a direct impact on residents. As such, the activity supports the Council's aim of Improving the quality of life for local people.

- 5.2 Compliance with the RIPA Codes of Practice directly aligns with our aim of doing our core work well, supporting the delivery of good quality, high value-for-money services with good control and compliance with statutory obligations.

### **CONTACT OFFICER**

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