

Shadow Dorset Council

Date of Meeting	11 March 2019
Lead Member	Cllr Spencer Flower – Chairman, Governance Working Group
Officer	David Fairbairn – Solicitor to the Council, Purbeck District Council
Subject of Report	Adoption of RIPA Policy
Executive Summary	<p>Under the Regulation of Investigatory Powers Act 2000 (“RIPA”) Dorset Council must have in place processes for authorising, recording and reviewing any covert surveillance that it carries out that it is regulated by the Act. The processes must comply with the Act, Regulations and any statutory codes of practice; the latter being admissible as evidence in court and may be taken into account by the Investigatory Powers Commissioner when carrying out an inspection.</p> <p>In accordance with the statutory code of practice a local authority must have a policy covering its use of covert surveillance approved by elected members. This report seeks approval of an overarching policy for how Dorset Council will exercise its RIPA powers.</p>
Impact Assessment:	<p>Equalities Impact Assessment:</p> <p>Yes. There are no equalities implications arising from this report.</p> <p>Use of Evidence:</p> <p>This report has been written in consultation with other legal officers and the relevant project manager.</p> <p>Budget:</p> <p>There are no budget implications</p> <p>Risk Assessment:</p> <p>Having considered the risks associated with this decision using the LGR approved risk management methodology, the level of risk has been identified as: Current Risk: Residual Risk LOW</p>

	<p>Other Implications:</p> <p>Failure to observe the RIPA could potentially constitute a breach of data protection and human rights legislation and could therefore result in significant reputational and/or financial damage to the Council. The adoption and compliance with the draft policy will reduce the risk of legal challenges that evidence gathered as part of an investigation was not acquired lawfully or in accordance with the correct procedures.</p>
Recommendation	<p>That the Shadow Executive Committee:</p> <ol style="list-style-type: none"> 1. Adopts the draft RIPA policy attached as Appendix 1; 2. Agrees that the Chief Executive is designated as the Council's Senior Responsible Officer in respect of the exercise of the Council's RIPA powers; and 3. Agrees that the Executive Directors are given delegated authority to authorise officers within their service areas to exercise the Council's RIPA powers.
Reason for Recommendation	Compliance with the Revised Code of Practice on Covert Surveillance and Property Interference (August 2018)
Appendices	Appendix 1 – Draft overarching RIPA policy
Background Papers	None
Officer Contact	<p>Name: David Fairbairn, Solicitor to the Council, Purbeck District Council Tel: 01929 557223 Email: davidfairbairn@purbeck-dc.gov.uk</p>
Date agreed by Lead Member	
Date agreed by statutory officers	<p>Matt Prosser, Chief Executive Designate – 26 February 2019 Jonathan Mair, Corporate Director, Legal & Democratic– 26 February 2019</p>

1. Introduction

- 1.1 RIPA regulates the use of covert surveillance by public authorities. The essence of which is that before any covert surveillance or the use of any covert human intelligence source is undertaken it must be authorised by a senior officer and in the case of local authorities wanting to use covert surveillance, approved by a Magistrate.
- 1.2 RIPA requires the Council to have in place procedures to ensure that when required, surveillance is seen as necessary, proportionate and is properly authorised. RIPA is underpinned by a number of statutory codes of practice. These codes of practice

admissible as evidence in court and may be taken into account by the Investigatory Powers Commissioner when carrying out an inspection.

- 1.3 The Revised Code of Practice on Covert Surveillance and Property Interference (August 2018) provides a local authority must have a policy covering its use of covert surveillance. Elected members, although not involved in the decisions to grant authorisations, are required to approve the policy annually.

2. The draft policy

- 2.1 The draft policy (Appendix 1) sets out the broad principles that the Council will apply in exercising its RIPA powers and identifies the officers who will have primary responsibility for ensuring that those powers are properly authorised.
- 2.2 It is essentially an overarching policy which does not set out the procedures to be followed or provide guidance on granting authorisations. These will be set out in a separate manual once the officer structure has been determined. For the purposes of Day 1, it is proposed that service areas will use their current procedures and manuals where these are consistent with the draft policy. In due course the aim will be for the Council to have harmonised procedures and guidance.