
RIPA (Regulatory of Investigatory Powers Act) Policy

Officer Making Decision:	Sean Murphy Service Lead- Public Protection
Date of Committee:	Delegated Officer Decision 29 August 2025
Portfolio Member:	Councillor Tom McCann
Report Author:	Sean Murphy

1 Purpose of the Report

- 1.1 The current policy, agreed in August 2022, is scheduled to be reviewed and adopted by the end of August 2025. This report therefore seeks to consider if any changes are needed to the existing policy and adopt them.
- 1.2 To set out the obligations on the Council with respect to the Regulation of Investigatory Powers Act 2000. (RIPA)

2 Recommendation

- 2.1 That the Service Lead for the PPP approve the revised RIPA policy in accordance with authority granted to him by virtue of the shared service inter-authority agreements and West Berkshire Council's Scheme of Delegation.

3 Implications and Impact Assessment

Implication	Commentary
Financial:	<p>There are no direct financial implications arising from this report, although failure to have an adequate and up to date policy in place may lead to claims for compensation.</p> <p>The training requirements set out in the policy will be met from the service training budget.</p>
Human Resource:	<p>There are no staffing implications associated with the review or adoption of this policy other than training requirements for relevant staff. Should it be necessary to use RIPA powers this will be undertaken by officers as part of their normal duties.</p>

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Legal:	<p>The Council is required to comply with a range of legislation and guidance in its deployment and use of surveillance including:</p> <ul style="list-style-type: none"> • Human Rights Act 1998 Articles 6 and 8 • Data Protection Act 1998 • Regulation of Investigatory Powers Act 2000 <p>The recommendation, if adopted, sets out a code for use across the Council when services are using and considering the deployment of surveillance systems and ensures the Council's compliance with relevant legislation and Codes of Practice.</p> <p>The Council is required by the statutory codes of practice issued under the Regulation of investigatory Powers Act 2002 to have an approved policy for the control and application of RIPA provision across the functions of the Council.</p>			
Risk Management:	<p>Failure to have a policy in place to govern the use of RIPA powers could result in reputational risk to the Council as it will be subject to criticism by the body which oversees the exercise of such powers by public authorities.</p> <p>Failing to have an up-to-date policy could also lead to the Council acting in an unlawful manner.</p> <p>Not having a policy in place could lead to prosecutions failing because evidence may need to be excluded.</p>			
Property:	There is no property implications associated with the adoption of this policy.			
Policy:	See body of report			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				

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A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?	X			If surveillance is misused it can lead to both a breach of the Human Rights Act 1998 as well as potential miscarriages of justice or inadmissible evidence being obtained. This policy and the associated social media working document set out a framework in which all council staff must operate and is designed to be Human Rights Act compliant.
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		No
Environmental Impact:				None
Health Impact:				None
ICT Impact:				None
Digital Services Impact:				None
Council Strategy Priorities:				None
Core Business:				None
Data Impact:				The Policy will be published on the PPP and Council websites.
Consultation and Engagement:	Sarah Clarke – Executive Director – Resources Nicola Thomas – Service Lead – Legal and Democratic Corporate Board – 05 August 2025			

4 Executive Summary

- 4.1 The purpose of the surveillance powers under Regulation of Investigatory Powers Act 2002 (RIPA) is often misunderstood by the media and consequently the public. Covert directed surveillance is sometimes an intrinsic part of certain types of investigation. There are times when the only way vital evidence can be secured is through this route or through accessing either the use of Covert Human Intelligence Sources (CHIS) or by obtaining communications data under the terms of the Investigatory Powers Act 2016.
- 4.2 Article 8 of the European Convention on Human Rights sets out the principle of the 'right to privacy'. Following the enactment of the Human Rights Act (HRA) 1998 this right has been embedded in UK law. This applies to personal affairs which includes those relating to their business. The 'right to privacy' is a 'qualified right' i.e. in certain circumstances that right may be breached in a wider public interest. The purpose of RIPA is to provide a framework under which specified public bodies may carry out directed surveillance in a highly controlled and regulated manner. Without this statutory exemption the use of surveillance could give rise to a claim for breach of the HRA.
- 4.3 Certain powers under the Act are restricted to certain government agencies. Local authorities as specified public bodies do have access to a number of powers appertaining to Direct Surveillance, communications data (not to be confused with communications interference) and the use of Covert Human Intelligence Sources (CHIS). Surveillance powers can only be accessed by local authorities for the purpose of 'prevention and detection of crime and the prevention of disorder' and are subject to both internal oversight through specifically trained authorising officers and then ultimately judicial oversight by the Magistrates Court.
- 4.4 Communications data can only be accessed through a single point of contact (SPOC) who in the case of local authorities is the National Anti-Fraud Network (NAFN) who are subject to a strict inspection regime.
- 4.5 This report sets out in more detail the approach taken in West Berkshire and the background to the policy the report seeks approval for.

5 Background

- 5.1 West Berkshire Council takes its statutory responsibilities seriously. It will always act within the law and take action that is necessary and proportionate for the discharge of such statutory responsibilities. As part of its work, the Council may need to carry out covert surveillance and other related activities.
- 5.2 The Human Rights Act 1998 requires the Council and agencies working on its behalf to respect the rights of individuals to a private and family life, their home and their correspondence. However, this is a qualified and not an absolute right. Accordingly, in certain circumstances the Council may interfere with the citizen's rights mentioned above if such interference is:
 - (a) in accordance with the law,
 - (b) necessary,

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(c) proportionate.

- 5.3 Regulation of Investigatory Powers Act provides the mechanism for authorising covert surveillance and the use of a 'covert human intelligence source', for example, undercover agents. It also allows for the acquisition and disclosure of communications data and the investigation of electronic data protected by encryption. The main use of Regulation of Investigatory Powers Act for this Council is in relation to covert surveillance. In this context Regulation of Investigatory Powers Act seeks to ensure that any interference with an individual's right under Article 8 of the European Convention (Right to respect for Private and Family Life) is necessary and proportionate.
- 5.4 Officers who wish to carry out covert surveillance or other activities authorised by Regulation of Investigatory Powers Act are required to have undergone suitable training by this Council. An application would need to be made to an Authorising Officer who has also received suitable training and is approved to consider such applications.
- 5.5 Every time an application is made, the Authorising Officer will consider whether the proposed surveillance or access to communication data is necessary. They will question if there is any other way of getting the information. The officer will also consider if surveillance is proportionate to check if the alleged wrong justifies the interference with an individual's rights. This is done in accordance with the law as well as the statutory framework, codes and the Council's policy.
- 5.6 Officer authorisation can only be granted by officers authorised to consider applications. Once internal approval has been given, judicial approval is necessary for directed surveillance and CHIS. Therefore, an application must be made to the Magistrates' Court for approval by a JP (District Judge or Magistrate) before directed surveillance can be undertaken.
- 5.7 Officers within the Public Protection Service regularly need access to communication data as part of their investigations often into fraud, counterfeiting and general dealing in illicit goods or other criminal activity. This includes subscriber details for telephone numbers and e-mail addresses, account holders and data for on-line platforms, billing information and occasionally top up information for pay as you go devices. For the avoidance of doubt Council staff have no powers to intercept data and take precautions to ensure that they do not inadvertently do so when seizing networked devices. The only officer authorised to consider Investigatory Powers Act applications is the Service Lead for Public Protection.
- 5.8 The Strategic Assessment of the PPP identifies eCrime as a cross-cutting service priority. Monitoring of any social media activity is a matter that is sometimes necessary for crime detection purposes but has to be handled carefully and in accordance with the law and Investigatory Powers Commissioner's Office (IPCO) guidance. The fact that an individual has 'open' or public settings on a social media account does not mean that they consent to any public authority accessing their data. Investigating Officers discuss these risks with their manager and/or the Senior Investigating Officer to evaluate the risks and decide whether they are likely to need to conduct surveillance covered by RIPA. The policy developed was described by IPCO at the last inspection of 'accurate and aligning with latest guidance contained in codes of practice'.

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- 5.8 At a national level there is a statutory inspection body in the form of IPCO who require annual returns from public authorities as well as providing for an inspection regime of public bodies including local authorities. At local level, scrutiny and oversight rests with the designated 'Senior Responsible Officer' who is currently the Executive Director for Resources. The SRO provides day-to-day oversight and in turn is accountable to the Council for oversight of surveillance activity.
- 5.9 The Council adopted a policy that sets out the Council's position and the procedures that officers are required to follow in August 2022. It is therefore now necessary to review the policy to ensure that it remains compliant and fit for purpose.
- 5.10 A number of minor updates have been made to the Regulation of Investigatory Powers Act 2000 Policy and Guidance including:
- Updates to the job titles of relevant officers
 - Updates to the relevant legislation that underpins the document.
 - Updates to reflect current working practices (see section 15 Test Purchases, section 19 in respect of use of ANPR, Section 24 Surveillance Equipment, Section 25 CHIS, Section 43 Proportionality, Section 60 Use of Disclosable Evidence)
 - Inclusion of a reference to the Policy setting out the PPP's approach to enforcement of age restricted products.
 - Inclusion of additional examples to assist with clarification.
 - Typographical corrections.

6 Options for consideration

- 6.1 The only alternative is not to adopt the Policy which would leave the Council vulnerable to challenge and non-compliant with the statutory framework.

7 Proposals

- 7.1 It is proposed that the Policy at Appendix A be adopted by the Council.

8 Conclusion

- 8.1 The right to privacy and a family life is a fundamental right enshrined in law. As is the right to a fair trial. The former however is a qualified right and there are occasions for the purposes of detection and investigation of crime that officers need to breach that right in a specific and proportionate way. The legal frameworks controlling such breaches are set out in the legal frameworks embedded in the Regulation of Investigatory Powers Act 2002 and Investigatory Powers Act 2016 and associated codes of practice. The former requires the Council to have a policy and for it to have robust procedures to ensure that these fundamental rights aren't breached unlawfully.
- 8.2 This report introduces the updated policy at Appendix A. Most of the amendments are minimal as the policy was subject to a fundamental review and update in 2022 and was found by IPCO to be robust.
- 8.3 We have been notified that we will face a joint inspection with Bracknell Forest Council in the autumn of 2025.

APPENDICES

Appendix A – RIPA Policy 2025

Background Papers:

None

Subject to Call-In:

Yes: X No: ☐

Wards affected: All

Officer details:

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