

**HARBOROUGH DISTRICT COUNCIL**

**REPORT TO THE CABINET MEETING OF 8 FEBRUARY 2021**

**PUBLIC REPORT: Y**

**EXEMPT REPORT: N**

<b>Report Title</b>	Amendment to the council's Regulation of Investigatory Powers Act 2000 Policy ("RIPA Policy")
<b>KEY DECISION</b>	No
<b>Report Author</b>	Verina Wenham Director, Law and Governance
<b>Purpose of Report</b>	To consider the proposed amendments to the RIPA Policy and to approve and adopt.
<b>Reason for Decision</b>	The RIPA Policy needs to be amended and updated to incorporate changes to the legislation and to include a social media as recommended by the Office of the Surveillance Commissioner
<b>Portfolio (holder)</b>	Councillor Dann
<b>Corporate Priorities</b>	
<b>Financial Implications</b>	None as far as this report is concerned. Any additional training required will be met from existing budgets
<b>Risk Management Implications</b>	
<b>Environmental Implications</b>	None as far as this report is concerned
<b>Legal Implications</b>	As set out in the body of this report.
<b>Equality Implications</b>	None as far as this report is concerned
<b>Data Protection Implications</b>	
<b>Consultation</b>	The RIPA Policy was reviewed by the Performance Scrutiny Panel at its meeting in December 2020.
<b>Options</b>	The amendments are in line with the recommendations from the Office of the Surveillance Commissioner which the Council had agreed to accept. If the amendments were not agreed the RIPA Policy would not be in accordance with the current legislation and could prejudice the evidential basis of any subsequent prosecutions.
<b>Appendices</b>	Appendix A:
<b>Background Papers</b>	RIPA Policy (2013),
<b>Recommendation</b>	<ol style="list-style-type: none"> <li>1. That the revised Policy attached as Appendix A is approved and replaces PART Chapter 2 of the existing RIPA Policy; and</li> <li>2. That Appendix B is approved and incorporated into the existing RIPA Policy; and</li> </ol>

	<ol style="list-style-type: none"><li>3. That (X) is appointed as an Authorised Officer under the RIPA Policy; and</li><li>4. Delegated authority is given to the Director, Law and Governance to make any consequential amendments to the Policy as required as a result of approving recommendations 1, 2 and 3 above.</li></ol>
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### 1. Introduction

- 1.1 The Council's Regulation of Investigatory Powers Act 2000 policy ("RIPA Policy") was last updated in 2013 following the implementation of the Protection of Freedoms Act 2012. There were further amendments in 2018 which consisted of change of titles of the authorised officers in the RIPA Policy.

### 1. Key Facts

- 2.1 Following a remote inspection this July by the IPCO the Council is required to update its RIPA Policy to include guidance on the use of internet and social media (which was an outstanding recommendation) and to update the RIPA Policy to include changes brought about by the introduction of the Investigatory Powers Act 2016 ("IPA") and linked to the revised Codes of Practice for both Surveillance and CHIS (Covert Human Intelligence Source)
- 2.2 The IPA came into effect in 2019. It repeals and replaces Part 1, Chapter 2 of RIPA (acquisition and disclosure of communications data) but does not replace Parts 2 and 3 of RIPA. Therefore, the existing regime for covert surveillance, the use or conduct of a CHIS, and the investigation of electronic data protected by encryption (for example on a laptop) will remain.

- 2.3 Attached as Appendix A to this report is a draft policy setting out how the Council will access communications data, and which is compliant with the IPA. It is proposed that this will replace the existing Part 1 Chapter 2 of the RIPA Policy. The main changes implemented by the IPA is that there is now a requirement to obtain external authorisation from the Office for Communications Data Authorisations.
- 2.4 In addition to the changes to the procedure for accessing communication data, it has also been recommended that the Council adopt a policy and guidance for the use of the internet and social media in investigations. Whilst the Council had not issued any RIPA authorisation since 2010, it does recognise possibilities of using social media as a tool for investigations and this should be guided by the appropriate procedure. A proposed policy for using social media in investigations is attached as Appendix B, which again will ensure that the relevant data protection requirements are complied with and any evidence obtained in this way is robust.
- 2.5 As set out above, the Policy was amended in 2018 to take account of changes in titles of the authorised officers, which following further recent changes will need to be further amended. It is also proposed that an additional Authorised Officer is appointed, as following a recent restructure there are only two officers now able to authorise requests. It is therefore suggested that (X) is included as an Authorised Officer.