

# Cyngor Sir CEREDIGION County Council

**REPORT TO:** Overview and Scrutiny Coordinating Committee

**DATE:** 15 September 2021

**LOCATION:** Remotely by Video Conference

**TITLE:** Report on the Council's use of the Regulation of Investigatory Powers Act 2000 ('RIPA')

**PURPOSE OF REPORT:** Information & Recommendation

**REASON SCRUTINY HAVE REQUESTED THE INFORMATION:** To undertake its 6 monthly review of the Council's use of RIPA, to consider whether the use of RIPA is being used consistently with the Council's RIPA PART II Directed Surveillance, Covert Human Intelligence Sources and Communications Data Corporate Policy & Procedures Document ('RIPA Policy'), to ensure compliance with the Investigatory Powers Commissioner's Office ('the IPCO') recommendations, to consider changes to the Council's RIPA Policy and consider the draft Council's RIPA Social Media Policy.

## BACKGROUND:

A Report was last brought to the Committee on the 20<sup>th</sup> of January 2021 (see 20<sup>th</sup> January 2021 Report with attached draft RIPA Policy attached at <https://www.ceredigion.gov.uk/your-council/councillors-committees/committees/coordinating/?year=2021&date=20%2F01%2F2021>).

### Monitoring by Members

The role of the Overview & Scrutiny Co-ordinating Committee is to review the Council's use of RIPA, and consider internal reports on the use of RIPA to ensure that it is being used consistently with the Council's Policy, and that Members should not be involved in making decisions on specific authorisations. The Home Office Code of Practice recommended that such reviews should take place at least quarterly.

## CURRENT SITUATION

### 1) RIPA Activity

There has been no RIPA activity by any service of the Council during the period of the 1<sup>st</sup> December 2020 to 12<sup>th</sup> August 2021. Authorising Officers have confirmed that they have not considered any RIPA applications during this time.

## 2) Data handling and retention safeguards

As confirmed in the 20<sup>th</sup> January 2021 Committee Report (see above), in consideration of the April 2020 letter from IPCO relating to Assurance of data handling and retention safeguards, a review is ongoing relating to storage, retention and disposal procedures, to ensure compliance with the IPCO requirements, and in particular ensure compliance with the Council's Information & Management Policy: <https://cerinet.ceredigion.gov.uk/media/2725/information-and-records-management-policy-v20.pdf>

A data audit by Archives & Information Management is also ongoing, the results of which shall be used to assist in the development of the Corporate Retention Schedule to include details of the Corporate Services that use RIPA. The data audit is taking place over a 4-month period from August to November 2021, Staff training for relevant Officers is being provided during August 2021 and a guidance document on the Data Audit has also been prepared.

## 3) Corporate RIPA Policy and Procedures

A draft RIPA Policy (with 'tracked changes' highlighting proposed amendments) was presented to the Committee on 20<sup>th</sup> January 2021. Since then, the RIPA Policy has been further updated to make reference to the requirements contained in the IPCO letter of April 2020 (see **Appendix 3**) relating to the assurance of data handling and retention safeguards.

Details of the proposed amendments to the Policy, made in consideration of the IPCO letter and recommendations from ongoing training providers and NAFN, are contained within the revised version of the RIPA Corporate Policy and Procedures document (see **Appendix 1**).

It was also considered necessary, due to the significant changes in associated relevant legislation and Codes, to review the format of the RIPA Policy.  
The main changes made are listed below:

- a) A restructure of the RIPA Policy, by grouping together the relevant sections relating to Directed Surveillance, a CHIS and Communications Data thematically for ease of reference, as follows:
  - Council's Policy Statement
  - Pat 1 – Introduction to Surveillance Regulated by Chapter 2 of RIPA
  - Part 2 – Directed Surveillance
  - Part 3 – Covert Human Intelligence Source ('CHIS')
  - Part 4 – Records, Data Handling, Retention Safeguards, Errors and Complaints
  - Part 5 – Communications Data
  - Part 6 – Non-RIPA Surveillance
  - Schedule 1 – Relevant Legislation
- b) Updating references to the relevant Codes and legislation;
- c) Inserting reference to the Council's new RIPA Social Media Policy (**Appendix 2**) and moving relevant guidance from the RIPA Policy to the RIPA Social Media Policy;
- d) Including reference to the Covert Surveillance Social Media and On-Line Persona

Information requested from Officers, record of information and procedure for providing information;

- e) Updating the details of relevant Officers, including those of the Authorising Officer and Approved Rank Officer;
- f) Removing the Forms, saving the sample forms as separate documents and updating the guidance within the sample forms. Updating reference to availability of forms as on Councils CeriNet intranet site, and from SRO/SRO Representative (Governance Officer);
- g) Updating the point of contact for relevant procedures/guidance e.g. reference to SRO and SRO's Representative;
- h) Updating reference to the Senior Responsible Officer for Communications Data – Corporate Lead Officer – Legal & Governance/Monitoring Officer;
- i) Developing Part 4 - records, data handling, retention safeguards, errors and complaints, including reference to central register of authorisations;
- j) Updating the Section on Communications Data (Part 5) further to advice from NAFN e.g. emphasis on role of NAFN's SPOC; and
- k) Formatting and stylistic changes.

#### 4) RIPA Social Media Policy and use of internet/social media

The use of internet and social media has been addressed comprehensively within the RIPA Policy (see **Appendix 1**). An additional section has been added relating to on-line personas or pseudonyms.

There are currently no services undertaking either overt or covert surveillance using personas/pseudonyms. Several open profiles are in use for communication purposes on social media platforms.

It was considered necessary to draft a RIPA Social Media Policy, as a stand-alone document, on the use of social media in surveillance.

The draft RIPA Social Media Policy is attached (see **Appendix 2**). This is a separate document to be read in conjunction with the RIPA Policy and includes:

- An explanation of terms, including Surveillance (both 'overt' and 'covert') and Social Media;
- Information on Privacy Settings;
- Details of Surveillance Procedures (including example scenarios);
- Details on Recording Information, Data Handling and Retention Safeguards; and
- A Schedule of relevant legislation, codes of practice, policies & guidance.

The outcome of the IPCO's last inspection response of 30 August 2019 was confirmed to the Committee on 14<sup>th</sup> November 2019

([http://www.ceredigion.gov.uk/cpd/Democratic\\_Services\\_Meetings\\_Public/PapurC.Enclosure\\_C.14.11.2019.pdf](http://www.ceredigion.gov.uk/cpd/Democratic_Services_Meetings_Public/PapurC.Enclosure_C.14.11.2019.pdf)). The IPCO stated that:

*'Any systematic, repeated viewing of an individual's online presence, covertly, and which may engage privacy considerations, requires the consideration of a RIPA authorisation.*

*The use of on-line personas:*

*The key guidance from the IPCO would be to ensure that where these are permitted to be*

*used corporately, that there is a named individual who will maintain a register of these pseudonyms, together with details of which departments or personnel can use them/sanction their use. A regular check should then be made of any such usage, including being able to review which media sites have been visited, when, for what purpose, and what has been done with any resultant product.'*

An email was sent by the Council's Senior Responsible Officer for RIPA to relevant services confirming future requirements, in compliance with recommendations from the IPCO (see also the IPCO April 2020 recommendations letter at **Appendix 3**), as well as:

- a) the requirement to follow the RIPA Policy procedures (including for Officers to consider whether a RIPA Authorisation is needed, fill in the appropriate form(s) & obtain the relevant Authorisation); and
- b) the need for effective monitoring of covert social media/on-line surveillance, when that surveillance is likely to obtain a person's private information (whether the covert surveillance is RIPA surveillance OR non-RIPA surveillance).

The requirements are that from 1<sup>st</sup> July 2021, each relevant Service will be required to:

1. Record relevant information/data;
2. Identify a Designated Officer in the Service to collate the information;
3. Provide this data to the Designated Officer; and
4. The Designated Officer is to provide this information to the SRO or SRO Representative every 4 months.

The Covert Surveillance Social Media and On-Line Persona Information requested from Officers has also been included in the Council's RIPA Policy.

The first request for information/data, covering the period 1st July 2021-31st October 2021. will be made on 1st November 2021.

## **5) Training**

On 9th February, a comprehensive ½ day remote Training Workshop provided by external providers was offered to relevant Officers (25 attendees) on RIPA, which included training on:

- RIPA legislation;
- Directed Surveillance & use of a CHIS;
- Employee Surveillance;
- Surveillance/Monitoring;
- Human Rights issues;
- Collateral intrusion & proportionality;
- The Forms & applications; and
- Social Media;

All the Authorising Officers (see 6)(a) below) have attended recent RIPA Training and further training is also being offered. Training is also being offered to the Chief Executive Authorising Officer (see 6)(b) below).

## 6) Authorising Officers/Approved Rank Officers

(a) The current Authorising Officers for Directed Surveillance, CHIS authorisations and non-RIPA authorisations are:

- The Corporate Lead Officer: Policy, Performance and Public Protection;
- The Corporate Lead Officer: People & Organisation; and
- The Statutory Director of Social Service & Corporate Lead Officer: Porth Cynnal

(b) The Chief Executive is the Authorising Officer to grant authorisations in respect of confidential or privileged information, relating to the covert filming of any Elected Member, Corporate Director or Corporate Lead Officer, or relating to surveillance of juveniles or vulnerable people.

(c) The current Approved Rank Officer for Communications Data is:

1. Corporate Lead Officer: Policy, Performance & Public Protection;

Alternative substitutes (if Approved Rank Officer at 1. above unavailable) are;

- Corporate Lead Officer: People and Organisation; and
- Corporate Lead Officer: Porth Cynnal.

**Has an Integrated Impact Assessment been completed? No  
If, not, please state why**

**Summary:** *This report is provided on for information purposes and does not represent a change in policy or strategy*

**Long term:** Planning for the long term in compliance with statutory requirements and development of long term policies for benefit of staff and the Local Authority. Consideration of accountability and well-being goals (e.g. globally responsible Wales – improvements to economic/social wellbeing, and cohesive community – safe and well-connected community) in benefits of having clear and robust RIPA Policy and RIPA Social Media Policy for Staff;

**Integration:** Amendments take into account Legislation changes and guidance.

**Collaboration:** Liaising with training providers.

## WELLBEING OF FUTURE GENERATIONS:

**Involvement:** To ensure that access to the Council's RIPA Policy and RIPA Social Media Policy is afforded to all Employees, and to facilitate transparency and openness within the organisation.

**Prevention:** To ensure that the Council's RIPA Policy remains updated and fit for purpose, and to approve the Council's RIPA Social Media Policy, to ensure appropriate rules and guidance in place for Officers.

### **RECOMMENDATION(S):**

That the Committee:

- 1) Notes the content of the Report;
- 2) Notes that there has been no RIPA activity by any service of the Council during the period of the 1<sup>st</sup> of December 2020 to the 12<sup>th</sup> of August 2021; and
- 3) Notes the contents of the draft amended Corporate RIPA Policy and Procedures Document (**Appendix 1**) and the draft RIPA Social Media Policy (**Appendix 2**), and recommends that Council approves these documents.

### **REASON FOR RECOMMENDATION(S):**

The recommendations are necessary to reflect changes in statutory guidance and legislation, and regulators' requirements.

#### **1. POLICY:**

To promote the wellbeing of the citizens of Ceredigion as a place where people can live in a high quality and safe environment.

#### **2. BUDGET:**

No budgetary constraints.

#### **3. HUMAN RIGHTS ACT:**

Compliant

#### **4. STATUTORY**

- 1) Regulation of Investigatory Powers Act 2000 ('RIPA')
- 2) Revised Code of Practice for Covert Surveillance and Property Interference 2018 (Code of Practice)

### **APPENDICES:**

- **Appendix 1**- Amended draft Corporate RIPA Policy and Procedures Document;
- **Appendix 2**- Draft RIPA Social Media Policy; and
- **Appendix 3** – The IPCO letter of April 2020

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**Designation:** Corporate Lead Officer - Legal and Governance (& Monitoring Officer)  
**Date of Report:** 12 August 2021  
**Acronyms:** N/A