

# WESTMORLAND AND FURNESS COUNCIL

## Cabinet

<b>Report Title</b>	Regulatory Investigatory Powers Act 2000
<b>Date of Meeting</b>	12 September 2023
<b>Report Author</b>	Linda Jones - Chief Legal and Monitoring Officer
<b>Lead Cabinet Member</b>	Cllr Jonathan Brook – Leader of the Council
<b>Why is this a key decision?</b>	<p>1. Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council’s budget for the service or function to which the decision relates. For these purposes, savings and expenditure are “significant” if they are equal to or greater than £500,000 and/or <b>NO</b></p> <p>2. Is likely to be significant in terms of its effects on communities living or working in an area comprising one or more wards in the area of the Council – <b>NO</b></p>
<b>Wards Affected</b>	All
<b>Identify exempt information and exemption category</b>	None
<b>Reasons for urgency (only where applicable)</b>	Not applicable
<b>Appendices (if any)</b>	Appendix 1 – Westmorland and Furness Council - Regulation on Investigatory Powers Act 2000 Policy.

### 1. Executive Summary

- 1.1 This report sets out the background to the Regulation of Investigatory Powers Act 2000 and requests that Cabinet approve a Westmorland and Furness Regulation of Investigatory Powers Act (RIPA) Policy.
- 1.2 The report also updates Cabinet members that a RIPA inspection will take place on the 11<sup>th</sup> of October 2023 and provides Cabinet with an update on surveillance activity since April 2023. No applications have been applied for.

### 2. Recommendations

For the reasons set out in this report, Cabinet is recommended to:

- 2.1 Approve the Regulation of Investigatory Powers Act 2000 policy attached at Appendix 1.
- 2.2 Delegate authority to the Chief Legal Officer and Monitoring Officer in consultation with the Leader and Deputy Leader to make amendments to the policy where required as a result of changes in legislation or as a result of the inspection.

2.3 Agree that training on the Regulation of Investigatory Powers Act 2000 should be added to the Council wide officer training programme.

### **3. Information: the Rationale & Evidence for the Recommendations**

3.1 The Regulation of Investigatory Powers Act 2000 puts a regulatory framework around a range of investigatory powers used by Local Authorities. This is done to ensure that the powers are used lawfully. It also requires, in particular, those authorising the use of covert techniques to give proper consideration to whether their use is necessary and proportionate.

3.2 RIPA provides the framework under which authorised regulators are able to carry out surveillance activities and access communications data which would otherwise not be legal because of the impact on human rights.

3.3 RIPA applications must go through a prescribed process which involves authorisation by one of the specified authorising officers. The authorised RIPA application must then be presented to a Magistrate for judicial approval. Guidance states that elected members of a local authority should review the authority's use of RIPA and set the policy at least once a year. The proposed policy document at Appendix 1 is a new policy and reflects the policies previously applied by sovereign councils.

#### **3.4 RIPA Inspection 11 October 2023**

The Council has been informed that a RIPA inspection will take place on the 11<sup>th</sup> October 2023. In view of the fact that Westmorland and Furness Council is a newly created unitary authority it is considered appropriate to carry out a physical inspection.

3.4.1 The purpose of the inspection will be as follows:

*“The purpose of the inspection will be to assess systems, structures and policies that have been put into place to ensure compliance with RIPA. This will entail meetings with key officers and an examination of any authorisations granted since the creation of the Council and should hopefully give reassurance to you and the Investigatory Powers Commissioner”*

3.4.2 Cabinet Members will recall that the Investigatory Powers Commissioners Office is a non-departmental public body (NDPD) which was established to oversee the authorisation and use of covert tactics by statutorily empowered public authorities, of which the Council is one. The Investigatory Powers Commissioners Office team supports the Investigatory Powers Commissioner and Judicial Commissioners in fulfilling their duties under the Investigatory Powers Act 2016. Funding for the IPCO is provided by the Home Secretary. However, the IPCO carries out its functions independently of the Government and is not part of the Home Office.

3.4.3 Inspections are usually every three years.

3.4.4 To ensure adherence to the process compliance will be monitored at quarterly meetings between authorising officers, the Monitoring officer and relevant Assistant Directors.

3.4.5 There have been no RIPA authorisations applied for or granted since April 2023.

#### **4 Link to Council Plan Priorities: (People, Climate, Communities, Economy and Culture, Customers, Workforce)**

4.1 Outcomes - People in Westmorland and Furness are Healthy and Safe and we are supporting our customer's and community's needs.

#### **5 Consultation Outcomes**

5.1 Consultation has taken place with the Leader, Cabinet member and the Chair of the Overview and Scrutiny Committee and the Chair of the Standards and Governance Committee, this Committee has responsibility for undertaking an annual review of the Council's use of the Regulation of Investigatory Powers Act 2000 (RIPA) ensuring compliance with Codes of Practice.

#### **6 Alternative Options Considered**

6.1 In order to comply with relevant legislation and guidance, the Council must have a Policy. The options are therefore:

##### **Option (a)**

- That Cabinet approves the Policy attached at Appendix 1 and delegates authority to the Chief Legal Officer and Monitoring Officer in consultation with the Leader and Deputy Leader to make amendments necessary to the policy in as a result of changes to legislation.

##### **Option (b)**

- That Cabinet approves the Policy at Appendix 1 with amendments.

##### **Option (c)**

- That Cabinet does not approve the Policy at Appendix 1.

#### **7 Financial Implications and risk**

7.1 There are no financial implications as a direct result of the recommendations contained within this report There is a risk that in not implementing a revised RIPA Policy (option C) the Council would not be compliant with it's obligations for annual review.

#### **8 Legal and Governance Implications**

8.1 The Regulation of Investigatory Powers Act 2000 sets out a regulatory framework for the use of covert surveillance techniques by public authorities.

- 8.2 Statutory guidance states that elected members of a local authority should review the authority's use of the RIPA and set the policy at least once a year.

## **9 Human Resources Implications**

- 9.1 There are no direct Human Resources implications arising from this report.

## **10 Equality and Diversity Implications (including the public sector equality duty, Armed Forces Families, Care Leavers and Health inequalities implications)**

- 10.1 The Council has a responsibility under the Health & Safety at Work Act 1974 to ensure, as far as is reasonably practicable, that adequate health and safety provisions are in place. The report outlines that enforcement activities which may require the use of RIPA include trading standards enforcement activities against rogue traders and loan sharks; community and fire safety; fraud investigations; and child protection, all of which are subject to health and safety risk assessments and controls managed within the relevant directorate with appropriate risk assessments and safe systems of work to be followed.
- 10.2 There is a positive impact on individuals and local communities of the Council undertaking investigative work that enables it to safeguard the vulnerable and fulfil its responsibilities as a regulatory authority. However, to ensure that benefit, any action taken needs to be lawful, necessary and proportionate and the recommendations in this report will assist to achieve an appropriate balance by providing clear guidance to staff.

## **11 Background Documents**

RIPA policies from the sovereign Councils:-

Cumbria County Council -

[legacy.westmorlandandfurness.gov.uk/elibrary/Content/Internet/536/654/1085/1086/43438155935.pdf](https://legacy.westmorlandandfurness.gov.uk/elibrary/Content/Internet/536/654/1085/1086/43438155935.pdf)

Eden District Council - [G37 21 RIPA AnnualUpdate FINAL.pdf](#)  
([eden.gov.uk](https://eden.gov.uk))

Barrow Borough Council -

[https://www.barrowbc.gov.uk%2F\\_resources%2Fassets%2Fattachment%2Ffull%2F0%2F9216.pdf&usg=AOvVaw1yaL8tZxxt\\_UJ\\_v73\\_svl-&opi=89978449](https://www.barrowbc.gov.uk%2F_resources%2Fassets%2Fattachment%2Ffull%2F0%2F9216.pdf&usg=AOvVaw1yaL8tZxxt_UJ_v73_svl-&opi=89978449)

South Lakeland District Council - [Guidance on Surveillance under the Regulation of Investigatory Powers Act 2000 reviewed Jan 2022](#)  
([southlakeland.gov.uk](https://southlakeland.gov.uk))