1.0 PURPOSE OF REPORT

1.1 To seek Committee’s approval of the updated RIPA policy, approve the appointment of the Chief Solicitor as Senior Responsible Officer for RIPA and to authorise the Head of Legal and Governance to make any consequential amendments to the Constitution.

2.0 RECOMMENDATION/S

2.1 That committee approve the draft RIPA policy enclosed as Appendix 1, appoint the Chief Solicitor as Senior Responsible Officer for RIPA and authorise the Head of Legal and Governance to make any consequential amendments to the Constitution.

3.0 RECOMMENDED REASON/S FOR DECISION/S

3.1 To ensure that the Council’s RIPA policy and procedure are in accordance with the recommended practice as set out in the RIPA codes.

4.0 ALTERNATIVE OPTION/S CONSIDERED AND RECOMMENDED FOR REJECTION (Must be used for reports to Cabinet & Cabinet Members)

4.1 Not to approve the updated policy and procedures. This would mean that the Council’s policy and procedure would not accord with the RIPA Codes.

5.0 THE REPORT

5.1 RIPA came into force on 25 September 2000; its aim is to strike a balance
between protecting individuals’ rights under Article 8 European Convention of Human Rights and the Human Rights Act and the need for Investigatory powers to protect the interests of society as a whole. RIPA allows the Council to carry out directed surveillance and/or use covert human intelligence sources (“CHIS”) lawfully if it is authorised in accordance with the provisions of RIPA, it is necessary for the purposes of preventing or detecting crime or disorder, it is proportionate to the aims, which it seeks to achieve, and any authorisation receives judicial approval.

5.2 The Council has a policy which sets out how it will deal with RIPA. The Homes Office also publishes codes of practice (“RIPA Codes”). In August 2018 the Home Office revised its codes of practice for Covert Surveillance and Property Interference. The Council has therefore amended its RIPA policy to take account of these amendments. The main sections which have been amended are:

5.2.1 Private Information - further information and guidance has been provided in the Code on what constitutes private or non-private information and this has been reflected in the amendments to these paragraphs of the Policy (see paragraphs 3.9-3.12 of the Policy)

5.2.2 Social Media and internet - Substantial new sections have been added to the Code providing detailed guidance and examples. This has been reflected in the Policy (see paragraphs 3.13-3.18 of the Policy)

5.2.3 Drones – A new section has been added to the Code providing guidance on the use of aerial surveillance devices. This has been included in the Policy (see paragraph 3.19 of the Policy).

5.2.4 Surveillance not core function – A section has been added to the Codes relating to covert surveillance for ‘non RIPA purposes’. This has been reflected in the Policy (see paragraphs 3.5-3.6 of the Policy).

5.2.5 Authorisation – A new section has been added to the Code requiring applicants to present the circumstances in a fair and balanced manner. This requirement has been added to the Policy (paragraph 2.11 of the Policy).

5.2.6 Collateral intrusion – Further guidance is included on the position, in particular is collateral intrusion unavoidable and on the information which should be provided to ensure that the authorising officer is properly informed when making their decision (see paragraphs 5.7-5.8 of the Policy).

5.3 The policy has also been amended to reflect the changes to authorising officers and the Senior Responsible Officer. The authorising officers have been reduced in number and the Chief Solicitor is now the Senior Responsible Officer for RIPA. These changes are based on guidance previously provided by the Investigatory Powers Commissioner.

The RIPA codes also recommend that elected members review and set the RIPA policy and the Council’s use of its powers at least annually. It is proposed therefore that the policy and a report on use of the Council’s
powers be brought to this committee for consideration at the beginning of each year.

The Council was inspected by the Investigatory Powers Commissioner in December 2018. This inspection was paper based only. As part of this inspection the inspector considered the draft policy and confirmed that it was well written. He also confirmed that the proposed change of Senior Responsible Officer from Chief Executive to Chief Solicitor was eminently sensible. The Commissioner confirmed that based on the paper based assessment the compliance demonstrated meant that there was no need for a physical inspection.

6.0 REQUIRED ASSESSMENTS AND IMPLICATIONS

6.1 The following were considered: Financial Implications; Human Resources Implications; Legal Implications; ICT Implications; Strategic Property/Asset Management Considerations; Risk Assessment; Equality and Diversity (the Public Sector Equality Duty and impact upon people with protected characteristics). If applicable, the outcomes of any consultations, assessments, considerations and implications considered necessary during preparation of this report are detailed below.

Legal – Approval of the revised policies and procedures will ensure compliance with RIPA and its Codes.

7.0 CONCLUSIONS

7.1 Approve the adoption of the RIPA policy at Appendix 1.

7.2 Approve the Chief Solicitor’s appointment as Senior Responsible Officer for RIPA and authorise the Head of Legal and Governance to make any consequential amendments be made to the Council’s constitution.

Background Papers –

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