

## AUDIT & RISK COMMITTEE

29 January 2019

# REGULATION OF INVESTIGATORY POWER ACT 2000 (RIPA) POLICY

### Report of the Director for Resources

Strategic Aim:	Sound Financial and Workforce Planning	
Exempt Information	No	
Cabinet Member(s) Responsible:	Mr O Hemsley, Leader and Portfolio Holder for Rutland One Public Estate & Growth, Tourism & Economic Development, Resources (other than Finance)	
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### DECISION RECOMMENDATIONS

That the Committee:

1. Notes the Regulation of Investigation Power Act 2000 (RIPA) Policy (Appendix A).

## 1 PURPOSE OF THE REPORT

- 1.1 To present an updated Regulation of Investigation Power Act 2000 (RIPA) Policy for comment prior to Cabinet approval on Tuesday February 19 2019.

## 2 BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 RIPA sets out a regulatory framework for the use of covert investigatory techniques by public authorities. Local Authorities are limited to using three covert techniques for the purpose of preventing or detecting crime or preventing disorder.
- 2.2 Use of these techniques has to be authorised internally by a trained authorising officer and can only be used where it is considered necessary, proportionate and as a last resort, when other overt techniques have proved to be unsuccessful. The three techniques are:
  - Directed covert surveillance;

- The use of Covert Human Intelligence Source (CHIS) i.e. undercover officers and public informants;
- Access to communications data i.e. mobile telephone or internet subscriber checks but not the content of any communication.

2.3 Enforcement action can be progressed using open source information and the requirement to use covert techniques is rare. The Council has not needed to rely on RIPA at any time during 2017/2018 and will continue to apply this sensible approach when dealing with enforcement matters. However, for any future use of RIPA we are required to follow this Policy and will be reported to the Audit and Risk Committee on a quarterly basis.

In August 2018 the Council was subject to a desktop documentary inspection by the Investigatory Powers Commissioner's Office (IPCO). As a result of this inspection the Council was found to have a positive approach to RIPA and to be demonstrating a level of compliance that removed the requirement for a physical inspection to take place.

2.4 The following matters were identified as requiring attention:

- Review of the RIPA Policy to incorporate the following:
  - i. The Investigatory Powers Act (IPA) and reference to the revised Home Office Codes of Practice (page 5 of the Policy);
  - ii. Reference to the new IP Act (page 5 of the Policy);
  - iii. Cross reference to the Home Office Codes of Practice: <https://www.gov.uk/government/collections/ripa-codes> (page 10 and 13 of the Policy);
  - iv. Recognition of guidance provided by the Investigatory Powers Commissioner and IPCO inspectorate (page 5 of the Policy);
  - v. Confirmation of the process adopted by RCC when seeking approval for RIPA activity from Magistrates, in accordance with The Protection of Freedoms Act 2012 (page 13 of the policy) and
  - vi. Investigative use of the Internet and Social Networking hence this should be appropriately covered in the revised policy (page 8 of the Policy).
- A review of those staff currently trained with regard to RIPA and the IPA (page 4 of the Policy).

2.5 A review of the Councils RIPA Policy has been completed and is presented to the Committee for approval (Appendix A).

2.6 A review of staff that require RIPA training has been undertaken. The Councils RIPA Co-ordinating Officer is attending external training in January 2019. ELearning training is currently under development and will be rolled out to all appropriate staff.

### **3 CONSULTATION**

3.1 There is no requirement for the Council to undertake consultation as part of this policy review.

## **4 ALTERNATIVE OPTIONS**

- 4.1 The alternative option is to fail to implement the recommendations detailed in the IPCO inspection. This would leave the Council vulnerable and potentially failing to comply with RIPA legislation. Failure to adhere would place the Council at legal and reputational risk.

## **5 FINANCIAL IMPLICATIONS**

- 5.1 There are no financial implications arising from this report

## **6 LEGAL AND GOVERNANCE CONSIDERATIONS**

- 6.1 The Regulation of Investigatory Powers Act ensures that the Authority acts in a way that is consistent with the requirements of the Human Rights Act.
- 6.2 This Policy will be considered for approval by Cabinet on 19 February 2019 in line with the Councils Constitution.

## **7 DATA PROTECTION IMPLICATIONS**

- 7.1 A Data Protection Impact Assessments (DPIA) has not been completed because there are no changes to the current RIPA processes and procedures that would affect the rights and freedoms of natural persons.

## **8 EQUALITY IMPACT ASSESSMENT**

- 8.1 An Equality Impact Assessment (EqIA) has not been completed at this stage. However, if the Council does need to consider any future applications under RIPA, a full assessment will be carried out as part of the individual circumstances.

## **9 COMMUNITY SAFETY IMPLICATIONS**

- 9.1 There are no community safety implications.

## **10 HEALTH AND WELLBEING IMPLICATIONS**

- 10.1 Good governance arrangements promote the financial wellbeing of the local community.

## **11 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

- 11.1 The Council will continue to use the Act infrequently, instead relying on open sources methods of investigation. The recommended changes from the IPCO will ensure that the Council is acting within the RIPA legislation and will provide a clear framework for the Council to proceed in the appropriate circumstances.
- 11.2 It is therefore recommended that this Policy is approved by Cabinet and implemented immediately. With the training for the Officers to follow immediately.

## **12 BACKGROUND PAPERS**

- 12.1 There are no additional background papers to the report.

## **13 APPENDICES**

### **13.1 Appendix A - Regulation of Investigatory Powers Act 2000 (RIPA) Policy**

**A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.**