

## CABINET

19 February 2019

# REGULATION OF INVESTIGATORY POWER ACT 2000 (RIPA) POLICY

### Report of the Strategic Director for Resources

Strategic Aim:	Sound Financial and Workforce Planning	
Key Decision: No	Forward Plan Reference: FP/141218	
Exempt Information	No	
Cabinet Member(s) Responsible:	Mr O Hemsley, Leader and Portfolio Holder for Rutland One Public Estate & Growth, Tourism & Economic Development, Communications, Resources (other than Finance)	
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### DECISION RECOMMENDATIONS

That Cabinet:

1. Approves 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 approval.

## 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.

2.4 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.

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> of the Policy (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 Net-working 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).

### 3 CONSULTATION

This Policy was noted by Audit and Risk Committee on 29 January 2019. The Committee asked for clarification that no directed surveillance or Covert Human Intelligence Sources (CHIS) action would be taken prior to approval by both the Authorising Officer and Magistrates Court. This has been added to the Policy on page 14.

## **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.

## **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 Regulation of Investigatory Powers Policy ensures that the Authority acts in a way that is consistent with the requirements and provides a clear framework for the Council to work to.

## **12 BACKGROUND PAPERS**

- 12.1 There are no background papers to the report.

## **13 APPENDICES**

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

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