

AUDIT AND RISK COMMITTEE

26 January 2016

REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) QUARTERLY REPORT COVERING TWO QUARTERS JULY – SEPTEMBER 2015 AND OCTOBER – DECEMBER 2015

Report of the Director for Resources

Strategic Aim:	All	
Exempt Information	No	
Cabinet Member(s) Responsible:	Mr T C King, Deputy Leader and Portfolio Holder for Places (Development and Economy) and Resources	
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Ward Councillors	Not applicable	

DECISION RECOMMENDATIONS

That the Committee:

1. Notes the content of this quarterly report, which covers all RIPA activity during the period 1st July to 31 December 2015. No further action is required.

1 PURPOSE OF THE REPORT

- 1.1 To provide an overview of the Regulation of Investigatory Powers Act 2000 (RIPA) and a summary of the Council's use of RIPA during the period 1 July to 31 December 2015.
- 1.2 The Regulation of Investigatory Powers Act 2000 (RIPA) was enacted to provide a framework within which a public authority may use covert investigation for the purpose of preventing and detecting crime or of preventing disorder.
- 1.3 The codes of practice issued by the Home Office in relation to Part II of RIPA recommend that elected members have oversight of the Council's use of these provisions. The Audit and Risk Committee's terms of reference enable the Committee to receive reports on the Council's use of covert investigations under RIPA. Update reports are presented to Audit and Risk Committee each quarter, or

thereabouts, in order to comply with regulatory requirements.

2 WHAT IS RIPA AND HOW CAN IT BE USED BY A LOCAL AUTHORITY?

- 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 Following the introduction of the Protection of Freedoms Act 2012, certain changes have been made to the way in which Local Authorities approve the use of RIPA. This Act introduced a requirement for Local Authorities to seek approval from a Justice of the Peace (JP) before any application under RIPA can commence.
- 2.4 In addition to the above change, there is a further requirement that Local Authorities only grant Directed Surveillance authorisations where the Local Authority is investigating particular types of criminal offences. These are criminal offences which attract a maximum custodial sentence of six months or more or criminal offences relating to underage sale of alcohol.
- 2.5 The Council has an approved policy, which governs the use of RIPA. This was approved by Cabinet in 2014.
- 2.6 It is also a requirement of RIPA to ensure Members within the authority review the use of RIPA and set the policy at least once a year. Members should also consider internal reports on the use of RIPA at least on a quarterly basis to ensure it is being used consistently with the Council's policy and that the policy remains fit for purpose. Members should not, however, be involved in making decisions on specific authorisations.

3 HOW HAS THE COUNCIL DEVELOPED ARRANGEMENTS TO ENSURE COMPLAINTS?

- 3.1 Members should be assured that in addition to a review of the current policy, a number of other enhancements have been made in order to strengthen the Council's position when considering the use of RIPA. These include the creation of a Rutland RIPA Group, where RIPA matters are discussed between officers who have expertise in this field. A central log of RIPA activity has been introduced and the Constitution has been updated (via Full Council) to reflect responsibilities and delegations under RIPA.

3.2 In May 2014, the Council was inspected in its use of RIPA by the Office of Surveillance Commissioner (OSC) - this inspection forms part of the OSC's overall regulatory approach and involves a visit to every Public Authority who is able to use RIPA. The purpose of the inspection was to examine policies, procedures, operations and administration in relation to RIPA. The Inspection Report was extremely positive with no recommendations for improvement being made. This outcome recognised the work that had been undertaken during the previous year to ensure the Council fully complied with the legislation.

3.3 Although the Council is robust in its approach to RIPA; it must be noted that the techniques mentioned within this report are rarely used. 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 the period of this report and will continue to apply this sensible approach when dealing with enforcement matters. However, any future use of RIPA will be reported to the Audit and Risk Committee on a quarterly basis

4 CONSULTATION

4.1 No consultation is required

5 ALTERNATIVE OPTIONS

5.1 Not applicable; there are no recommendations in this instance. Failure to adhere to RIPA would place the Council at legal and reputational risk.

6 FINANCIAL IMPLICATIONS

6.1 There are no financial implications arising from this report.

7 LEGAL AND GOVERNANCE CONSIDERATIONS

7.1 These are mainly detailed within the body of the report. The Investigatory Powers Tribunal (IPT) would investigate any complaint by an individual about the use of RIPA techniques by the Council. If, following a complaint to them, the IPT does find fault with a RIPA authorisation or notice it has the power to quash the order of the Justice of the Peace, which approved the grant or renewal of the authorisation or notice. This may nullify any subsequent criminal proceeding relying on that authorisation or notice.

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 As above. There are no direct implications but this will be considered as part of any future individual application.

10 HEALTH AND WELLBEING IMPLICATIONS

10.1 As above.

11 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 11.1 RIPA sets out a regulatory framework in which the Council must operate in order to comply with the law. The Council has a robust approach to RIPA; this has been endorsed by the OSC during their inspection of arrangements in 2014. The Council will continue to use the Act infrequently, instead relying on open sources methods of investigation. However, the Council will consider future use of the Act in the appropriate circumstances.

12 BACKGROUND PAPERS

- 12.1 There are no background papers.

13 APPENDICES

- 13.1 There are no appendices.

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