

AUDIT AND RISK COMMITTEE

26 April 2016

ANNUAL RIPA REPORT AND POLICY

Report of the Director for Resources

Strategic Aim:	All	
Exempt Information	No	
Cabinet Member(s) Responsible:	Mr O Hemsley, Portfolio Holder for Resources (excluding Finance), Culture, Sport & Recreation, Tourism and Housing	
Contact Officer(s):	Diane Baker, Head of Corporate Governance	01572 720941 dbaker@rutland.gov.uk
	Debbie Mogg, Director for Resources	01572 758358 dmogg@rutland.gov.uk
Ward Councillors	Not applicable	

DECISION RECOMMENDATIONS

That the Committee:

1. Notes the report and reviews the Regulation of Investigatory Powers Act 2000 (RIPA) Policy attached at Appendix A.

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 2015/2016.
- 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 each Audit and Risk Committee meeting on a quarterly basis 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. Although there have not been any amendments to legislation, which affect the operation of RIPA, the Policy is attached at Appendix A to allow Audit and Risk Committee members to review the document and comment on any changes they feel may be necessary (please see 2.6 below).
- 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 USE OF RIPA

- 3.1 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 2015/2016 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 There is no requirement to consult as this report is to provide an update for Audit and Risk Committee and to allow them to comment on the associated Policy.

5 ALTERNATIVE OPTIONS

5.1 No applicable; 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 authorisation process.

9 COMMUNITY SAFETY IMPLICATIONS

9.1 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 (MANDATORY)

12 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

13 BACKGROUND PAPERS

13.1 There are no background papers in respect of this report.

14 APPENDICES

14.1 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.