

Title of report: Regulatory Investigatory Powers Act 2000 (RIPA) Update

Meeting: Audit and Governance Committee

Meeting date: Tuesday 29 October 2024

Report by: Head of Legal Services and Deputy Monitoring Officer, Head of Regulation and Technical Services

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

To provide an update to the Committee about the operation of Regulatory Investigatory Powers Act 2000 (RIPA) within the Council.

Recommendation(s)

That the Committee:

- a) **Adopts the revised RIPA Policy in Appendix 1; and**
- b) **Notes that the Investigatory Powers Commissioners Office has been satisfied as to the operation of RIPA within the Council.**

Alternative options

1. There are no other options.

Key considerations

2. The Council's Constitution tasks this committee with the role of '*To oversee the council's arrangements for Regulatory Investigatory Powers Act 2000 (RIPA) and Investigatory Powers Act 2016 under its Policy*'.

RIPA Policy

3. The Policy was last reviewed and [updated in June 2021](#) by the committee. A further review was performed in June 2023 and it was considered by officers that the Policy remained valid and up to date with only minor changes required to reflect changes to the roles within the Council.
4. Neither the Policy nor the terms of reference for the committee are clear as to the period that the Policy should be considered by the Committee. Ordinarily we would expect officers to keep the policy up to date and recommend changes to this to the committee as they occur.
5. Accordingly, a copy of the amended Policy with tracked changes is attached as Appendix 1.

Training

6. The application of the RIPA Policy has now been added to the basic induction training for officers. This makes clear guidance in respect to the use of social media by officers in performance of their duties.
7. In addition, specific training on the application of RIPA was rolled out to officers in the Council who may use RIPA as a part of any investigation into any unlawful activities, during April and May 2024. This mainly included officers with the Environmental Health and Trading Standards teams in the Economy and Environment Directorate.
8. In total over 50 staff were training by an external specialist on the use of RIPA in April and May 2024. This included the use of directed surveillance, covert human intelligence sources and the acquisition of communications data. In addition, this included the use of non-RIPA surveillance for investigations and the implications of unlawful use of surveillance.
9. Further, officers with specific roles under the Policy (Authorising Officers, Senior Authorising Officers, Senior Responsible Officers) had direct further training in respect to their individual roles under the Policy.

Investigatory Powers Commissioners Office (IPCO)

10. In January to March 2024 the Council received correspondence from the IPCO in respect to the Council's use of covert surveillance and covert human intelligence sources (CHIS) in accordance with RIPA.
11. The IPCO's inspection regime has changed where the Council provides a written report on its use of RIPA and only where the IPCO is not satisfied with the responses, is a full inspection performed.
12. The IPCO requested that the Council provided information on the following matters:
 - a. That previous non-compliance had been remedied
 - b. The RIPA policy is reviewed and submitted to members for approval
 - c. Specific awareness training and key officer training has occurred
 - d. Central records are kept
 - e. Specific officers under the Policy are in place
 - f. Social media is covered in training

- g. The use of social media is monitored by managers
 - h. CCTV is operated and managed in line with RIPA considerations
 - i. The Council is aware of NAFN and how communications data is managed
 - j. The council complied with the Codes of Practice in relation to destruction of material
 - k. Provided copied of all RIPA authorisations used since the last inspection.
13. The Council's response on items a. to j. satisfied the IPCO on basis that training was scheduled for April/May for specified officers and that the RIPA policy would be assessed by the Audit & Governance Committee (this meeting).
14. The Council Trading Standards team have used RIPA authorisations twice in the last 3 years in August 2021 and April 2022 in respect to test purchases for tobacco. The IPCO were satisfied as to the process used but provided the Council with further guidance on drafting of the RIPA requests - including considering the specificity of the case for authorisation more closely and to formally cancel authorisations even when the authorisation was due to expire at the end of the authorisation period.

Community impact

15. Local authorities have a wide range of functions and are responsible for enforcing 1,000 separate Acts of Parliament and secondary legislation. Regulatory functions include consumer protection, animal health and welfare, fire safety and child protection. Effective and efficient enforcement protects the most vulnerable in our communities and acts as an enabler for economic progress

Environmental Impact

16. No impact.

Equality duty

17. The public sector equality duty requires us to consider how we can positively contribute to the advancement of equality and good relations and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.
18. The continued operation and update of this Policy is not likely to result in detrimental impact on any group with a protected characteristic. Any decision made under this Policy will require a further consideration whether any protected characteristics are impacted.

Resource implications

19. There are no resource implications as a result of the recommendations provided in this report.

Legal implications

20. Part 11 of the Regulation of Investigatory Powers Act 2000(RIPA) places covert surveillance on a statutory basis enabling public authorities identified in the legislation to carry out surveillance operations without breaching the Human Rights Act 1998.
21. A number of statutory instruments and codes of practice published by the Home Office govern the operation of RIPA.
22. Organisations using RIPA are subject to regular inspection by the IPCO.

Risk management

23. Failure to comply with legislation places the council at risk of legal challenge. Approval of the new policy and compliance with the policy and legislation ensures that the risk to the council is low.

Consultees

24. None.

Appendices

Appendix 1 – Revised RIPA Policy September 2024

Background papers

None identified.

Report Reviewers Used for appraising this report:

Governance	Jen Preece	Date 05/09/2024
Finance	Click or tap here to enter text.	Date Click or tap to enter a date.
Legal	Sean O'Connor	Date 18/10/2024
Communications	Luenne Featherstone	Date 15/10/2024
Equality Duty	Click or tap here to enter text.	Date Click or tap to enter a date.
Procurement	Click or tap here to enter text.	Date Click or tap to enter a date.
Risk	Click or tap here to enter text.	Date Click or tap to enter a date.
Approved by	Rachael Sanders	Date 18/10/2024