

Audit and Standards

30 November 2022

Report of: The Monitoring Officer

Regulation of Investigatory Powers Act 2000 [RIPA] Update 2021-22

Corporate Priority:	Ensuring the right conditions to support delivery (inward)
Relevant Ward Member(s):	N/A
Date of consultation with Ward Member(s):	N/A
Exempt Information:	No

1 Summary

- 1.1 To provide an update to members in relation to the Council's use of powers under the Regulation of Investigatory Powers Act 2000 (RIPA) from April 2021 to March 2022.

2 Recommendation(s)

That Committee:

- 2.1 Notes the update for the period April 2021 to March 2022
- 2.2 Approve the reviewed RIPA Policy noting there are no proposed changes

3 Reason for Recommendations

- 3.1 To provide an annual update in order to comply with the RIPA Policy and governance best practice.

4 Background

- 4.1 RIPA sets out a regulatory framework for the use of covert investigatory techniques by public authorities and an annual report is presented to the Audit and Standards Committee

- 4.2 Local Authorities are limited to using three covert techniques for the purpose of preventing or detecting crime or preventing disorder. Use of these techniques has to be authorised internally by a trained authorising officers 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:
- 4.2.1 Directed covert surveillance;
 - 4.2.2 The use of Covert Human Intelligence Source (CHIS) i.e., undercover officers and public informants;
 - 4.2.3 Access to communications data i.e., mobile telephone or internet subscriber checks but not the content of any communication.
- 4.3 Since 1st November 2012, any RIPA authorisations or renewals must also have judicial approval from a Justice of the Peace. This is done at the Leicestershire Magistrates' Court.

5 Main Considerations

- 5.1 Under RIPA local authorities have the power to authorise directed surveillance (usually covert cameras or covert observations by officers) and the use of Covert Human Intelligence Sources (CHIS) (essentially undercover officers conducting surveillance) if the authorisation is necessary for the prevention and detection of crime or preventing disorder and if the surveillance is proportionate to the aims it seeks to achieve.
- 5.2 In respect of directed surveillance, save for a small number of licensing offences, any crime or disorder being prevented or detected using RIPA must be a criminal offence which attracts a minimum of 6 months in custody, the so called "serious crime" threshold.
- 5.3 The authorisations under RIPA can only be given by Directors and/or the Chief Executive, and the entire process is overseen by the Monitoring Officer as the Senior Responsible Officer for RIPA (SRO).
- 5.4 **Inspections:**
- 5.4.1 The Council's RIPA process is subject to intense scrutiny and the Council is routinely (approximately every 3 years) inspected by the Investigatory Powers Commissioner's Office (IPCO) to ensure that its RIPA processes, procedures, policies and practices are sound.
 - 5.4.2 The last inspection took place in April 2020 with the outcome being reported to the Audit and Standards Committee in January 2021.

- 5.4.3 The report stipulated the integrity of the Council's process and procedures should be maintained to ensure high standards of compliance.
- 5.5 **Internal Inspections:**
- 5.5.1 In addition to the external telephone-based inspection by the IPCO, there are annual audit of RIPA usage for enforcement.
- 5.5.2 Enforcement action can be progressed using open-source information and the requirement to use covert techniques is rare.
- 5.5.3 Whilst the Council's use of RIPA powers has declined over the years, there are offences which the Council investigate, for example fly-tipping offences which do cross the serious crime threshold and officers can still use the RIPA powers in certain circumstances for such investigations where it is necessary and proportionate to do so.
- 5.5.4 The Council has not needed to rely on RIPA at any time during 2021/22 and will continue to apply this sensible approach when dealing with enforcement matters. Even where the Council's current RIPA usage is low, it is still essential that the Council keep the RIPA processes and procedures under close scrutiny.
- 5.5.5 The Council will continue to be subject to inspection in relation to its use of the powers by the IPCO and as such the Council's policy, processes, training and review of RIPA usage must continue to ensure our processes remain fit for purpose.
- 5.6 **Policy Review**
- 5.6.1 A review of the Council's RIPA Policy has been completed. No changes are proposed and it is presented to the Committee for comment/approval (Appendix A).
- 5.7 **Training:**
- 5.7.1 As part of the Council's RIPA policy, and to ensure authorising officers and investigating officers remain up to date and knowledgeable in respect of RIPA powers, officers will receive annual training in relation to RIPA.
- 5.7.2 The Monitoring Officer arranged for training to take place on 07 December 2021 for authorising officers and other relevant officers.
- 5.7.3 It is important that RIPA awareness is maintained throughout the organisation even if authorisations are not being obtained. The next training session will be scheduled for December 2022 / January 2023.

- 5.7.4 The Monitoring Officer as Senior Responsible Officer will continue to monitor, review and report on RIPA usage in line with the legislation and the Council's policy.

6 Options Considered

- 6.1 None – the policy requires an annual update to Members and this ensures good governance

7 Consultation

- 7.1 There is no requirement for the Council to undertake consultation as part of this update.

8 Next Steps – Implementation and Communication

- 8.1 Ongoing reviews of the training needs for the Council

9 Financial Implications

- 9.1 There are no financial implications identified from this report

Financial Implications reviewed by: Director for Corporate services

10 Legal and Governance Implications

- 10.1 RIPA sets out a regulatory framework for the use of covert investigatory techniques by public authorities.
- 10.2 All legal implications have been addressed within the body of the report.
- 10.3 The RIPA Policy provides that annual update reports will be received by the Audit and Standards Committee.

Legal Implications reviewed by: Monitoring Officer

11 Equality and Safeguarding Implications

- 11.1 There are no equality or safeguarding implications arising from this update as there are no proposed changes to the policy.
- 11.2 Equality and safeguarding considerations will be made prior to any enforcement which may involve surveillance.

12 Community Safety Implications

12.1 There are no community safety implications identified from this update.

13 Environmental and Climate Change Implications

13.1 There are no environmental and/or climate implications arising from this update.

14 Other Implications (where significant)

14.1 None

15 Risk & Mitigation

Risk No	Risk Description	Likelihood	Impact	Risk
1	Failure to comply with the policy	Low	Marginal	Low
2	Failure to have an up-to-date policy	Low	Marginal	Low

		Impact / Consequences			
		Negligible	Marginal	Critical	Catastrophic
Likelihood	Score/ definition	1	2	3	4
	6 Very High				
	5 High				
	4 Significant				
	3 Low		1, 2		
	2 Very Low				
	1 Almost impossible				

Risk No	Mitigation
1	Regular Communications and training to ensure staff are aware of their responsibilities
2	Regular (3 yearly reviews) of the policy and upon changes in guidance / legislation

16 Background Papers.

- 16.1 Report to Audit & Standards Committee – January 2021 - [Agenda for Audit and Standards Committee on Wednesday, 27th January, 2021, 6.30 pm - Melton Borough Council](#)
- 16.2 Report to Audit & Standards Committee – November 2021 - [Agenda for Audit and Standards Committee on Tuesday, 30th November, 2021, 6.30 pm - Melton Borough Council](#)

17 Appendices

- 17.1 Appendix 1 – RIPA Policy – November 2022 Review

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