



Regulation of Investigatory Powers Act 2000 [RIPA] Update 2022-23

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Lead Member/Relevant Portfolio Holder	Monitoring Officer

Corporate Priority:	Ensuring the right conditions to support delivery (inward)
Relevant Ward Member(s):	All
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 2022 to March 2023.
- 1.2 To review and update the RIPA Policy.

2 Recommendations

RECOMMENDATION(S)	
That Committee:	
2.1	Notes the update for the period April 2022 to March 2023
2.2	Approve the reviewed RIPA Policy (Appendix A) noting minor proposed changes as detailed in para 5.13 of this report.

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:
- i) Directed covert surveillance;
 - ii) The use of Covert Human Intelligence Source (CHIS) i.e., undercover officers and public informants;
 - iii) 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) (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 attracting 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 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 The Council has not needed to rely on RIPA at any time during 2022/23 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.
- 5.6 The Council is subject to the revised inspection regime in relation to its use of the powers by the IPCO as detailed below and as such the Council's policy, processes, training and review of RIPA usage must continue to ensure our processes remain fit for purpose.

The Investigatory Powers Commissioners Office (IPCO)

- 5.7 The last inspection took place in April 2020 with the outcome being reported to the Audit and Standards Committee in January 2021.
- 5.8 The Council would have been due for another inspection this year, however, the IPCO have reviewed the way in which it conducts oversight of local authorities and will no longer undertake routinely an inspection as has previously been the case. Instead, the Investigatory Powers Commissioner (IPC) has agreed that each local authority should provide a written update, in the first instance, on its compliance with the legislation. This will enable the IPCO to assess whether or not a remote, or in some cases, in-person inspection is required. This approach takes cognisance of the general decline in the use of covert powers by many local authorities.
- 5.9 Melton Borough Council received a request to confirm by correspondence, compliance with requirements of the legislation and associated Codes of Practice on 15 September 2023. The proposed response is attached (Appendix B) and will be provided to the IPCO following the Committee meeting.
- 5.10 The IPCO expects early notification of any errors in the use of the powers, which will then be investigated fully. However, generally speaking, if powers have not been used since the last inspection, and responses to the questions provide sufficient assurance of having maintained good levels of compliance, the IPCO will probably require no further engagement.
- 5.11 Where the powers have been used, or planned to be used in the near future, an appropriate discussion with an Inspector will be arranged in order to enable the IPCO to form a view of the approach being taken.
- 5.12 In addition, a dip sample of in-person inspections will be conducted which can include authorities where the powers have not been used for some time.

Policy Review

- 5.13 A review of the Councils RIPA Policy has been completed and it is presented to the Committee for comment/approval (Appendix A). Minor changes have been made as summarised below:
- Updated Job Descriptions to reflect current establishment.
 - Change to use of generic Job Titles, rather than specific named individuals.
 - Amendment to Section 6.3 on use of CCTV to reflect current partnership arrangements with Harborough District Council.
 - Updated references to current versions of Codes of Practice.
 - Records retention period updated to 5 years.
 - Minor clerical/formatting amendments.

Training

- 5.14 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. It is important that RIPA awareness is maintained throughout the organisation even if authorisations are not being obtained.
- 5.15 Training has been arranged to take place on 9 January 2024 for authorising officers and other relevant officers.

- 5.16 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 The letter confirming compliance will be sent to the IPCO by the Monitoring Officer.
8.2 The revised RIPA Policy will be uploaded to the SharePoint site.
8.3 Training is scheduled to take place in January 2024.

9 Financial Implications

- 9.1 There are no financial implications identified in this report.
9.2 The training has been organised in conjunction with Rutland County Council in order to achieve a cost saving.

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: Interim Assistant Director for Governance & Democracy (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 Data Protection Implications

- 12.1 A Data Protection Impact Assessments (DPIA) has not been completed because there are no risks/issues to the rights and freedoms of natural persons arising from the update or the revised Policy.

13 Community Safety Implications

- 13.1 There are no community safety implications identified from this update.

14 Environmental and Climate Change Implications

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

15 Risk & Mitigation

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

		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 communication and training to ensure officers are aware of the requirements.
2	Regular reviews of the policy and upon changes to legislation and guidance to ensure it is up to date and reflects current best practice.

16 Background Papers.

16.1 None

17 Appendices

17.1 Appendix A – RIPA Policy (November 2023 Review)

17.2 Appendix B – MBC Response letter to IPCO