

COUNCIL

Date	19 DECEMBER 2013
Title	REGULATION OF INVESTIGATORY POWERS ACT (RIPA) – UPDATE

1. PURPOSE/SUMMARY

This report gives Members an update on the Council's use of the Regulation of Investigatory Powers Act 2000 (RIPA) and changes to its use as a result of the Protection of Freedoms Act 2012. This is a regular update that advises Members about the Council's use of RIPA.

2. KEY ISSUES

- RIPA allows Councils to carry out certain types of surveillance (when investigating suspected benefit fraud, for example). Evidence from these may be used by the Council in court proceedings. The Act details how surveillance must be controlled and undertaken.
- Good practice suggests that the Councils Corporate Governance Committee should review operation of RIPA on an annual basis, albeit that any formal changes to the Councils RIPA Policy are legally required to be made only by full Council.
- The Protection of Freedoms Act 2012 took effect in 2012, adding additional requirements before RIPA could be used.
- The Council has not undertaken any surveillance under RIPA this year.

3. RECOMMENDATIONS

It is recommended that Council:-

- Note this report as received by Corporate Governance Committee at its meeting on 3 December 2013.

Wards Affected	All
Forward Plan Reference No.	N/a
Portfolio Holder(s)	Councillor Michael Humphrey Portfolio Holder for Finance
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<p>Background Paper(s)</p>	<p>Protection of Freedoms Act 2012 – changes to provisions under the Regulation of Investigatory Powers Act 2000 (RIPA) – Home Office Guidance to local authorities on the judicial approval process for RIPA and the crime threshold for directed surveillance. Home Office, October 2012.</p>

1. INTRODUCTION

- 1.1 RIPA allows Councils to undertake covert surveillance that can lead to gaining private information about individuals. Such surveillance is lawful if the actions are:-
1. Necessary for the purpose of preventing or detecting crime or preventing disorder,
 2. Proportionate. This involves balancing the effect on an individual's human rights of the surveillance with the benefit of the surveillance itself,
 3. Non-discriminatory, and
 4. Lawful.

2. USE OF RIPA

- 2.1 The Council has not used RIPA since 2011.

3. THE PROTECTION OF FREEDOMS ACT 2012 AND ITS EFFECT ON RIPA

- 3.1 The above act become law in October 2012. It was designed to safeguard civil liberties and reduce the burden of Government intrusion into the private life of individual citizens. This tightened existing RIPA legal requirements.
- 3.2 Corporate Governance Committee at its meeting on 4 December 2012 noted the effects of the above and the revised RIPA Policy, which was subsequently adopted by Council at its meeting on 21 December 2012.
- 3.3 A reminder of the RIPA process and designated "Authorised Officers" required by RIPA follows overleaf.
- 3.4 The process for using RIPA is as follows:-

1. RIPA can only be used where the Council wishes to investigate certain types of criminal offence, which must attract a maximum custodial sentence of six months or more, or relate to the underage sale of alcohol or tobacco.
2. The Investigating Officer asks an Authorising Officer (see section 3.5) for approval.
3. If approval is granted, the Council must apply to a Justice of the Peace (JP) for the use of RIPA to be authorised.
4. The Court (in practice this will normally be the Magistrate's Court at Peterborough) must be contacted to arrange a hearing to hear the application. A copy of the authorisation and supporting documents will be provided to the Court.
5. A hearing will be convened, in private and heard by a single JP. The Council will decide which Officers are designated to attend this type of hearing (the Home Office suggests that legally trained personnel are not needed to present at these hearings).
6. The JP will consider the application and its reasonableness with regards the Act and then approve it (or not). This will be recorded formally with paper copies of the decision form kept by the Council and Court.
7. If approval was granted, surveillance could take place but only in the exact manner and for the tightly defined period shown on the form.

3.5 The Council Officers designated as "Authorising Officer" in the last year are:-

Senior Responsible Officer	
Alan Pain	Corporate Director and Monitoring Officer
For all authorisations involving the acquisition of confidential material	
Paul Medd	Chief Executive
Alan Pain	Corporate Director and Monitoring Officer
Authorised Officers	
Paul Medd	Chief Executive
Alan Pain	Corporate Director and Monitoring Officer
Rob Bridge	Corporate Director and Chief Finance Officer
Richard Cassidy	Corporate Director
Geoff Kent	Head of Customer Services
Single Point of Contact (SPOC)	
Jonathan Tully	Internal Audit
James Brewer	Benefit Fraud
Debbie Chaplin	Benefit Fraud

- 3.6 The Council can only therefore use RIPA to investigate in more serious cases such as serious criminal damage, dangerous waste dumping, serious or serial benefit fraud, preventing or detecting the underage sale of alcohol or tobacco.
- 3.7 The Council will not be able to use RIPA to investigate what the Home Office calls "low level offences" which include littering, dog control or fly-posting.
- 3.8 However it is worth noting that the Council has not used RIPA at all for some time.
- 3.9 Councils can now only use RIPA using three covert techniques, subject to the above constraints:-

1. Directed surveillance – covert surveillance,
2. Covert human intelligence source (CHIS) – undercover officers, informants and people who make test purchases,
3. Communications data – obtaining service use and subscriber information for telephone and internet services (to identify the person involved; it does not include intercepting actual calls or internet traffic itself).

4. CONCLUSION

- 4.1 Members are asked to note the contents of this report with particular regard to:-
No surveillance under RIPA being required in the last year.