

## RESPONSE TO ACTION POINT

<b>AUDIT COMMITTEE</b>	
<b>29 JUNE 2016</b>	<b>PUBLIC</b>

### USE OF REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

<b>ACTION POINT – 21 March 2016</b>		
To provide a guidance note to Audit Committee Members to outline when an application could be made for the use of regulation of investigatory powers act 2000 (RIPA).		
Contact Officer (s)	<i>Ben Stevenson</i>	01733 452387
Response:		
1.1 Number the paragraphs accordingly.	<p>The determination for whether the use of the Act is required relies on the answer to five questions being yes. These questions are:</p> <ol style="list-style-type: none"> <li>1. Is the surveillance activity covert i.e. someone is unaware of the activity?</li> <li>2. Is the surveillance directed i.e. for a specific purpose?</li> <li>3. Is the investigation into a criminal offence?</li> <li>4. Is there a possibility of obtaining confidential or private information?</li> <li>5. Is the crime threshold met? This means that we as a local authority can only use the RIPA powers if the criminal offence is punishable by a term of imprisonment of more than 6 months or it is related to the underage sale of tobacco and alcohol.</li> </ol> <p>If these questions are answered yes then RIPA does apply and the process as described in the Act including judicial approval will apply. In some cases, the first four may be yes but the matter may not meet the crime threshold. In such matters as those where surveillance is seen as the proportionate response but RIPA does not apply, Peterborough City Council will adopt the same process as if it did apply apart from requiring judicial approval.</p> <p>In addition to the above, the use of any surveillance powers must be proportionate. In simple terms, are we using a sledgehammer to crack a nut. It must also be necessary to further an investigation i.e. it cannot be obtained in any other way. The council policy contains greater detail on our approach and is attached.</p> <p>In respect of the offence of fly tipping, this would meet the crime threshold as the offence relating to fly tipping is punishable by 12 months imprisonment at Magistrates Court or 5 years at Crown Court. If there was an application which met the determination and was considered to be a proportionate and necessary response to the issue then it may be approved internally before seeking judicial approval.</p>	

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