

<b>AUDIT COMMITTEE</b>	AGENDA ITEM No. 7
<b>9 NOVEMBER 2015</b>	<b>PUBLIC REPORT</b>

Cabinet Member responsible:	Cllr David Seaton, Cabinet Member for Resources	
Committee Member responsible:	Councillor Aitken, Chair of Audit Committee	
Contact Officer(s):	Kim Sawyer, Director of Governance Ben Stevenson, Compliance Manager (Governance)	☎ 452 361 ☎ 452 387

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

<b>RECOMMENDATIONS</b>	
<b>FROM :</b> Kim Sawyer, Director of Governance	<b>Deadline date :</b> N/A
1. Audit Committee is asked to (a) receive, consider and endorse this report on the recommendations of the OSC inspection and (b) approve the revised corporate RIPA policy	

### 1. ORIGIN OF REPORT

- 1.1. This report is submitted to the Committee as a scheduled report on the Council's use of the RIPA powers in accordance with the established Work Programme 2015 / 2016.

### 2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is to provide Members with an update on the action plan put in place to address the recommendations of the report which followed the Office of Surveillance Commissioner (OSC) inspection by His Honour Norman Jones QC. It also provides the opportunity for the approval of the revised corporate policy in light of the inspection.
- 2.2 This report is to be considered in accordance with its Terms of Reference 2.2.1.14 - To monitor Council policies on "raising concern at work" and the anti-fraud and anti-corruption strategy and the Council's complaints process.

### 3. OFFICE OF SURVEILLANCE COMMISSIONER

- 3.1 The OSC aim to provide oversight of the conduct of covert surveillance activities by public authorities such as Peterborough City Council and ensure that is human rights compliant in accordance with RIPA. The current Chief Surveillance Commissioner is the Right Honourable Lord Igor Judge.
- 3.2 The OSC has a cycle of inspection of public authorities. Local authorities are inspected every three years unless recommendation is made otherwise. Following an inspection, a report will be issued detailing findings and any recommendations.

3.3 The OSC will also produce an annual report on the usage of RIPA powers and any themes highlighted during that year.

#### **4. INSPECTION REPORT AND RECOMMENDATIONS**

4.1 The inspection took place on 9 June 2015. The report was subsequently received on 24 June 2015 and it was acknowledged that we would implement the recommendations.

4.2 The report noted that both Kim Sawyer, Director of Governance and Senior Responsible Officer (SRO) for RIPA, and Ben Stevenson, Compliance Manager and Central Monitoring Officer (CMO) were both well informed and determined maintain compliance with the Act. Peter Gell, Head of Regulatory Services, was commended as highly experienced authorising officer.

4.3 The recommendations of the report were

- The number of authorising officers be reduced with those designated receiving training
- Recommendations made in the previous report in 2012 as regards the corporate policy be discharged and also additional changes arising from 2015 be made to the said policy
- RIPA awareness be raised throughout the Council
- A regular training plan should be implemented

4.4 The inspection was seen as a positive and constructive experience for officers and the Council.

#### **5. ACTION PLAN IN RESPONSE**

5.1 The policy had identified eight authorising officers along with the SRO and CMO. Given our low usage of RIPA powers, this was agreed to be more than necessary. We have reduced to three plus the SRO and CMO.

5.2 Training was undertaken on 10 June 2015 for twenty officers including authorising and applying officers. This will be run on a bi-annual basis with annual refresher training internally.

5.3 The majority of the recommendations related to the policy itself which strengthen and improve it for officers. A summary of these is shown below.

- Incorporation of the codes of practice reference to proportionality into the policy
- Placing the explanation of the crime threshold into the section on directed surveillance rather than later in the policy
- Ensuring that reference to seeking the advice of SRO or legal prior to requesting the authorisation of a covert human intelligence source.
- Removing the reference to urgent oral authorisations which are no longer available to local authority
- Indicating that the duration of an authorisation commences with the magistrates approval
- Indicating that juvenile or vulnerable CHIS and the acquisition of confidential information by only be authorised by the Chief Executive or

SRO in their absence

- Inserting a section on RIPA and the interaction with social media
- Insert a section which outlines the process for judicial approval
- Outline the responsibilities of the SRO and CMO
- Expand on the case law examples to provide more explanation to officers
- Include a section of when RIPA applies and what to do when it does not
- Remove reference to home surveillance as no longer applicable

5.4 Prior to the inspector's report being received, work had already commenced to update the policy. It was also referred to an experienced external training provider to review. This has provided an additional feedback on content and format to assist officers in understanding their responsibilities.

5.5 In addition to the recommendations, the inspection highlighted additional areas to ourselves where we could be proactive and improve governance. Given the greater restrictions of when RIPA applies, it means that more activities fall outside of RIPA yet would benefit from the framework being applied. We have proposed using the RIPA framework, minus the judicial approval, to self-regulate activities which may constitute surveillance but do not meet the crime threshold. This ensures a robust framework with a central register of all surveillance activities.

5.6 The policy, (Appendix A), has been updated and is attached for consideration.

## **6. CONSULTATION**

6.1 Consultation has taken place between the following parties:

- Director of Governance; and
- Chief Internal Auditor.

## **7. ANTICIPATED OUTCOMES**

7.1 That the Audit Committee notes the recommendations of the inspection report and approves the revised policy. The inclusion of a register of activities which fall out of scope of RIPA will ensure that the Committee continues to be informed of the necessary and proportionate use of surveillance activities across the Authority.

## **8. REASONS FOR RECOMMENDATIONS**

8.1 Given the authority's responsible and low use of these powers, it is recommended that the committee continues to receive information on the use of RIPA and non RIPA activities only when those processes have been used.

## **9. ALTERNATIVE OPTIONS CONSIDERED**

9.1 There are no alternative options as this is a statutory requirement.

## **10. IMPLICATIONS**

10.1 There are no implications arising from this report which are not already addressed in the report. The Council has already established a positive profile and has been congratulated on its adherence to the legislation by the Office of Surveillance Commissioners.

## **11. BACKGROUND DOCUMENTS**

(Used to prepare this report in accordance with the Local Government (Access to Information) Act 1985)

11.1 Covert Surveillance and Property Interference Revised Code of Practice

## **12 APPENDICES**

Appendix A - Regulation of Investigatory Powers Act (RIPA) Policy