

AUDIT COMMITTEE	AGENDA ITEM No. 11
16 JULY 2018	PUBLIC REPORT

Report of:	Fiona McMillan Interim Director of Law and Governance	
Cabinet Member(s) responsible:	Councillor David Seaton, Cabinet Member for Resources	
Contact Officer(s):	Ben Stevenson, Data Protection Officer	Tel. 452387

USE OF REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

RECOMMENDATIONS	
FROM: Fiona McMillan, Interim Director of Law and Governance	Deadline date:
<p>It is recommended that the Audit Committee:</p> <ol style="list-style-type: none"> 1. Review the attached updated RIPA policy and agree the proposed amendments as detailed in this report. 	

1. ORIGIN OF REPORT

- 1.1 This report is submitted to the Audit Committee as a scheduled report on the Council's use of the powers contained within the Regulation of Investigatory Powers Act (RIPA) in accordance with the established Work Programme 2018/2019.

2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is to provide Members with an understanding of RIPA and when these powers may be used, the governance and oversight the use of such powers require and to review and update the council's RIPA policy.
- 2.2 This report is for the Audit Committee to consider under its Terms of Reference No. 2.2.1.13

To monitor Council policies on "raising concerns at work" and the anti-fraud and anti-corruption strategy and the Council's complaints process.

3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	
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4. BACKGROUND AND KEY ISSUES

- 4.1 Local authorities exercise criminal investigation powers for a number of reasons from fly tipping to planning enforcement to sale of counterfeit goods. The Council may undertake covert surveillance to investigate such matters and that work will be regulated by RIPA. It also provides a statutory process for authorising such work.

RIPA seeks to ensure that any covert activity undertaken is necessary and proportionate because of the impact on an individual's right to a private life under Article 8 of the Human Rights Act. In undertaking such activity the Council are in effect suspending a person's right to privacy. RIPA seeks to ensure both the public interest and the human rights of individuals are balanced.

The Council is able to undertake directed surveillance meaning that it must be for the purpose of a specific investigation or operation. The Council is not permitted to undertake intrusive surveillance, i.e. surveillance in private premises or vehicles.

- 4.2 The Council has a policy to ensure that covert surveillance is subject to good governance and the authority complies with legislation even though we rarely use such powers. The policy was last updated in 2015.
- 4.3 The oversight of the use of such powers was within the remit of the Office of the Surveillance Commissioners until 1 September 2017 when it was replaced by the Investigatory Powers Commissioner's Office (IPCO). The IPCO also includes the former Intelligence Surveillance Commissioner's Office and the Interception of Communications Commissioner's Office.
- 4.4 The council was last inspected in 2015 when we received a positive report with a number of recommendations including reducing the number of authorising officers and implementing training for officers. Training was provided to officers shortly after the inspection and further training will be delivered this year to all officers who may undertake investigations where covert surveillance *may* be considered necessary.
- 4.5 The adequate and effective monitoring of covert surveillance is overseen by the Council's Senior Responsible Officer (SRO). Peterborough City Council's SRO is Fiona McMillan and she is supported by the central monitoring officer and two authorising officers.

5. Policy Review

The policy has been updated as described below:

- The SRO has been changed to confirm Fiona McMillan as SRO
- We have removed the section on Non-RIPA Authorising Officers to reflect the change in process within the policy to ensure all managers consider the impact of any surveillance, its proportionality and necessity of any surveillance to an investigation and whether RIPA applies
- We have updated the useful website links
- We have increased the guidance for the use of social media in investigations and a new appendix to assist
- We have inserted new section on joint services and operations to ensure officers have clarity on the process to follow
- We have inserted a reminder to officers to consider any community sensitivities when considering any surveillance activities
- We have updated the case-law relevant to this policy and the authority
- We have updated the list of authorising officers

The policy will be reviewed by officers and a reported presented each year to Members as to any required changes to the policy and guidance.

6. CONSULTATION

6.1 Consultation has taken place with the following parties:

- Director of Legal and Governance; and
- Chief Internal Auditor

7. ANTICIPATED OUTCOMES OR IMPACT

7.1 The Audit Committee continues to be informed of the reviews of policy as well as receiving reports on the necessary and proportionate use to RIPA across the Authority through regular updates.

8. REASON FOR THE RECOMMENDATION

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 only when those processes have been used.

9. ALTERNATIVE OPTIONS CONSIDERED

9.1 There are no alternative options considered at this time.

10. BACKGROUND DOCUMENTS

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

10.1 Regulation of Investigatory Powers Act 2000
Protection of Freedoms Act 2012
Home Office Codes of Practice for Covert Surveillance and Property Surveillance

11. APPENDICES

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

