

<b>AUDIT COMMITTEE</b>	<b>AGENDA ITEM No. 10</b>
<b>25 NOVEMBER 2024</b>	<b>PUBLIC REPORT</b>

Report of:	Neil McArthur, Director of Legal & Governance and Monitoring Officer
Cabinet Member(s) responsible:	Cllr Mohammed Jamil, Deputy Leader and Cabinet Member for Finance and Corporate Governance
Contact Officer(s):	Neil McArthur, Director of Legal & Governance, Monitoring Officer Ben Stevenson, Data Protection Officer/Head of Information Governance

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

RECOMMENDATIONS	
<b>FROM:</b> Neil McArthur, Director of Legal & Governance and Monitoring Officer	<b>Deadline date:</b> 25 November 2024
<p>It is recommended that the Audit Committee:</p> <ol style="list-style-type: none"> <li>1. Receives and notes the outcome of the recent Investigatory Powers Commissioner’s Office</li> <li>2. (IPCO) inspection</li> <li>3. Receives and notes the updated Peterborough City Council RIPA policy</li> <li>4. Receives a report detailing the usage of the powers</li> <li>5. Receives a link to the council’s online RIPA training to aid with their understanding of the application of the powers</li> </ol>	

### 1. ORIGIN OF REPORT

1.1 This report is submitted to Audit Committee to provide it with oversight of the Regulation of Investigatory Powers Act (RIPA) policy and processes.

### 2. PURPOSE AND REASON FOR REPORT

2.1 The purpose of this report is to provide Members with an overview of the following items:

- The findings of the IPCO inspection
- An updated Peterborough City Council policy
- an understanding of RIPA which enables them to have effective oversight of the use of said powers
- a report detailing the usage of the powers

2.2 This report is for Audit Committee to consider under its Terms of Reference No. 3.25:

To have oversight of the Regulation of Investigatory Powers policy and processes.

### 3. **TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	N/A
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### 4. **BACKGROUND AND KEY ISSUES**

#### **BACKGROUND**

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 that 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 Covert surveillance might mean the use of CCTV to monitor an individual's movement or their actions. Whilst the CCTV camera itself is overt, it is the use of that camera to track that individual's actions without that individual knowing which makes that act covert. The Council may also use underage volunteers to purchase tobacco or alcohol whilst being filmed. The viewing of CCTV footage after an incident does not constitute covert surveillance and therefore does not fall under RIPA.

4.3 RIPA also permits the Council, via the National Anti-Fraud Network (NAFN) to require the release of communications data where the appropriate circumstances exist. We can obtain information which identifies the subscriber to a mobile phone and to see a call history, but we cannot gain access to the actual content of calls. In an investigation into a rogue trader, we could link the contact number to the person and others called. We cannot obtain access to electronic data protected by encryption or passwords, which would include emails.

4.4 The Council may also authorise the use of a Covert Human Intelligence Source (CHIS) to obtain information from individuals in a covert manner such as a Trading Standards officer using a pseudonym to carry out a test purchase online. It may also apply to the tasking of a member of the public to obtain private information about an individual. It should be noted that the Council has never authorised the use of a CHIS since the commencement of RIPA.

4.5 In addition to RIPA, the Protection of Freedoms Act 2012 introduced two key important provisions for local authorities such as Peterborough City Council. The first is that in order for the Council to apply for approval, the offence being investigated must meet the crime threshold. This means that either the offence carries a maximum punishment of imprisonment of six months or more or it is an offence relating to the sale of tobacco or alcohol to underage individuals.

The second key factor is the approval process. Any investigations must be properly authorised by one of the Council's Authorising Officers in accordance with our policies and procedures. In addition, the council must also obtain judicial approval from a Justice of Peace i.e. district judge or Magistrate.

#### **IPCO INSPECTION**

4.6 The Investigatory Powers Commissioner's Office (IPCO) provides independent oversight of the use of investigatory powers by intelligence agencies, police forces and other public authorities. As part of this oversight, they undertake inspections to assess compliance, provide guidance and

assurance that such powers are being used appropriately and in line with the legislation and codes of practice.

Local authorities are inspected on a two-to-three-year basis. In June of this year, the council underwent a desktop inspection which looked at a number of areas such as policy, training and documentation. A copy of the outcome letter is provided at Appendix 1. This notes no further inspection is required and that the council was in the process of concluding its shared arrangements with Cambridgeshire County Council.

#### **POLICY**

- 4.7 The council's policy has been reviewed to remove references to shared arrangements around policy, process and authorisation. A copy of this policy is provided at Appendix 2. Aside from the separation from Cambridgeshire County Council, the other change to note is that Neil McArthur is now the Senior Responsible Officer for RIPA.

#### **SURVEILLANCE UNDERTAKEN**

- 4.8 There has been no use of covert surveillance since the last Audit Committee report.

### **5. CORPORATE PRIORITIES**

- 5.1 The use of covert surveillance powers proportionally and appropriately enables the council to deliver safer for our communities through investigations for examples into rogue trading, illegal trade of tobacco and other criminal activities. The council has the powers to investigate such matters and take appropriate actions which will improve the lives and wellbeing of our residents.

### **6. CONSULTATION**

- 6.1 The report following the inspection was received by the following parties:

- Chief Executive; and
- Director of Law and Governance

### **7. ANTICIPATED OUTCOMES OR IMPACT**

- 7.1 The Audit Committee continues to be informed of the outcomes of inspections, updates to the policy and the necessary and proportionate use of RIPA across the Authority through regular updates as required.

### **8. REASON FOR THE RECOMMENDATION**

- 8.1 It is recommended in the Codes of Practice that the elected Members receive information on the use of RIPA and receives an updated policy annually based on the changes in the Code of Practice, processes or inspections.

### **9. ALTERNATIVE OPTIONS CONSIDERED**

### **10. IMPLICATIONS**

#### **Financial Implications**

- 10.1 There are no financial implications from this report.

#### **Legal Implications**

- 10.2 The legal implications are set within the report

## **Equalities Implications**

10.3 There are no equalities implications from this report.

## **11. BACKGROUND DOCUMENTS**

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

11.1 Regulation of Investigatory Powers Act 2000  
Protection of Freedoms Act 2012  
RIPA Codes of Practice, [RIPA codes - GOV.UK](#)

## **12. APPENDICES**

12.1 Appendix 1 – IPCO Outcome Letter  
Appendix 2 – Peterborough City Council RIPA policy