

Corporate Policy & Resources Committee

27 November 2023



Title	Regulation of Investigatory Powers Act Policy (RIPA policy)
Purpose of the report	To note the changes made to the Policy following the review and adopt the RIPA Policy
Report Author	Farida Hussain, Monitoring Officer
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	Not applicable
Corporate Priority	The use of surveillance powers supports all the Council's corporate priorities
Recommendations	Committee is asked to: Adopt the RIPA Policy and delegate to the Group Head of Corporate Governance to keep the Policy under regular review and update the Audit Committee on any updates to the Policy and use of the powers thereunder.
Reason for Recommendation	To ensure transparency in respect of the Council's use of its powers under RIPA.

1. Summary of the report

- 1.1 RIPA regulates surveillance carried out by public authorities in the conduct of their business, specifically the monitoring, recording and interception of communications and the use of directed covert surveillance. The Council is required to have a policy in place to demonstrate how these powers are utilised.
- 1.2 This report seeks to advise the Committee on the outcome of the review of the RIPA Policy by the Group Head of Corporate Governance and to formally adopt the Policy.

2. Key issues

- 2.1 The Regulation of Investigatory Powers Act (RIPA) came into force in 2000. The Act allowed:

- Councils to carry out covert surveillance of alleged offenders and to instruct individuals to form relationships with the intention of obtaining information for the prevention and detection of crime.
 - Compliance with RIPA ensures that the surveillance actions taken by the Council are acceptable interference of qualified rights within the Human Rights Act 1998, in particular the right to privacy and the right to a fair trial, when gathering evidence in preparing cases for Court.
- 2.2 The Investigatory Powers Commissioner's Office (IPCO) carries out scheduled audits of the use of RIPA by Local Authorities to monitor quality of applications and compliance with the Codes.
 - 2.3 In addition, all authorisations for surveillance activities carried out by the Council under RIPA must be independently reviewed and approved by a Magistrates' Court.
 - 2.4 IPCO carried out a review of the Council in relation to surveillance activities in 2020. The Inspector made the following observation - "It was unclear when the RIPA guidance had last been updated, and a review is scheduled which will include details of the new SRO and data assurance guidance as explained below."
 - 2.5 It is not clear when the last review of the RIPA Policy took place however the Group Head of Corporate Governance has now completed the review with the Deputy Monitoring Officer and the updated Policy is at Appendix A. The updated RIPA Policy takes into account changes in personnel within the Council, the role of IPCO, data assurance and further information regarding surveillance via social media.
 - 2.6 Another recommendation made by the Inspector was to update members on the use of RIPA powers. Going forward a report will be taken to the Audit Committee on an annual basis to provide the update.
 - 2.7 The Council's RIPA Policy and related documents can be found on the intranet.
 - 2.8 An inspection was carried out by IPCO on 27th September 2023 and the following recommendations were made on the Policy:-
 - i. To remove reference to urgent oral authorisations as this option is no longer available following the implementation of the Protection of Freedom Act 2012;
 - ii. To update the definition of a covert human intelligence source (CHIS); and
 - iii. To make it clear that authorisations should not simply expire and should be cancelled when the directed surveillance no longer meets the criteria upon which it was authorised.

These recommendations have been included in the updated Policy.

- 2.9 Annual statistics on use of RIPA powers are reported to IPCO.
- 3. Options analysis and proposal**
 - 3.1 The Council can agree to the updated Policy or propose other amendments.
 - 4. Financial implications**

4.1 Not applicable.

5. Risk considerations

5.1 Not adopting the RIPA Policy may result in RIPA powers not being applied consistently across the Council. Not obtaining intelligence correctly in accordance with RIPA requirements, could impact on admissibility of evidence in prosecution of cases.

6. Procurement considerations

6.1 Not applicable.

7. Legal considerations

7.1 The legal considerations are covered in the main body of the report.

8. Other considerations

8.1 There are none.

9. Equality and Diversity

9.1 The RIPA Policy is accessible by all.

10. Sustainability/Climate Change Implications

10.1 There are none.

11. Timetable for implementation

11.1 Once approval for the updated RIPA Policy is received, it will be uploaded onto the Council's intranet as soon as possible.

Use of RIPA powers by the Council will be reported to the Audit Committee in January 2024.

12. Contact

12.1 Farida Hussain f.hussain@spelthorne.gov.uk.

Background papers: There are none.

Appendices:

Appendix A – Updated RIPA Policy