

REGULATION OF INVESTIGATORY POWERS ACT 2000

Report of Angela Lax, Cabinet Member for Legal & Regulatory Services

Date: 22 July 2021
Agenda Item:
Contact Officer: Christie Tims
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Key Decision? NO
Local Ward Members Full Council

Lichfield
district council

AUDIT &
MEMBER
STANDARDS
COMMITTEE

1. Executive Summary

- 1.1 The Council's Code of Practice for carrying out surveillance under the Regulation of Investigatory Powers Act 2000 (RIPA) specifies that yearly reports will be taken to the Audit & Member Standards committee to demonstrate to elected members that the Council is complying with its own Code of Practice when using RIPA.

2. Recommendations

- 2.1 That the Audit & Member Standards Committee accept this as the RIPA monitoring report for the last financial year.
- 2.2 That the Audit & Member Standards Committee approves the updates to the Corporate Policy and Procedure for RIPA as set out in **Appendix 1**.
- 2.3 That the Audit & Member Standards Committee note the RIPA Investigatory Powers Commissioner's Office (IPCO) Inspection Report 2021 as set out in **Appendix 2**.

3. Background

- 3.1 The RIPA Code of Practice produced by the Home Office in April 2010 and updated in January 2016 introduced the requirement to produce reports to elected members to demonstrate that the Council is using its RIPA powers appropriately and complying with its own Code of Practice when carrying out covert surveillance. This requirement relates to the use of directed surveillance and covert human intelligence sources (CHIS).
- 3.2 The Council has not used directed surveillance in the current financial year.
- 3.3 There have also been no authorisations for the use of CHIS.
- 3.4 The RIPA Co-ordinator and all Authorising Officers completed training on 3 February 2021.
- 3.5 IPCO completed an inspection in February 2021 and noted the previous failure to undertake an annual review of the RIPA policy and procedure in 2020 due to Covid pressures. An annual report on the use of RIPA has been undertaken and provided to members each year, but no revisions were noted to the policy and procedure since its introduction in 2018. This will now form part of the annual report going forward.
- 3.6 This updated policy refers to the developing use of CHIS and noting the increase in use of social media. It makes clear that a Human Rights Assessment should be undertaken and documented for all types of surveillance, not just that falling within RIPA.

Alternative Options

Obligations arising under RIPA for the authority are statutory therefore the

	only option is compliance.
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Consultation	Input into the updated policy has been sought from SSLegals, staff using any form of overt or covers surveillance and investigation techniques. The updated policy reflects comments and observations from IPCO
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Financial Implications	Support for the RIPA obligations and functions are met from existing budget and existing staff resources.
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Approved by Section 151 Officer	Yes/no*
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Legal Implications	This report covers our statutory duty to keep our RIPA policy under review on an annual basis and ensuring any authorisations sought will be done so in compliance with the law.
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Approved by Monitoring Officer	Yes
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Contribution to the Delivery of the Strategic Plan	A good council.
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Equality, Diversity and Human Rights Implications	The recording of applications, authorisations, renewals and cancellations of investigations using covert surveillance techniques or involving the acquisition of communications data is covered by the Regulation of Investigatory Powers Act 2000. The Regulation of Investigatory Powers Act was introduced to regulate existing surveillance and investigation in order to meet the requirements of Article 8 of the Human Rights Act. Article 8 states: Everyone has the right for his private and family life. His home and his correspondence, there shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the Country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. RIPA investigations can only be authorised by a local authority where it is investigating criminal offences which (1) attract a maximum custodial sentence of six months or more or (2) relate to the sale of alcohol or tobacco products to children. There are no risk management or Health and Safety implications.
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Environmental Impact	None arising from this report.
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Crime & Safety Issues	The recommendation(s) will impact (positively) on our duty to prevent crime and disorder within the District (Section 17 of the Crime and Disorder Act, 1988). The legislation requires the Authority to record and monitor all RIPA applications, keep the records up to date and report yearly to a relevant Committee.
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GDPR/ Privacy Impact Assessment	RIPA investigations will capture personal data and fall within the scope of the considerations of the authority. The use of a Human Rights Assessment will consider privacy impacts on a case by case basis.
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	Risk Description	How We Manage It	Severity of Risk (RYG)
A	Failure to obtain RIPA authorisation or comply with RIPA	Regular Training/Keeping Records of authorisation/Notifying staff of	Likelihood low Impact med

		changes to procedure/policy	Green tolerable
B	Staff using covert practices unwittingly	Regular training and awareness sessions/reminders	Likelihood low Impact med Green tolerable
Background documents			
Relevant web links			