

# REGULATION OF INVESTIGATORY POWERS ACT 2000

Report of the Monitoring Officer

Date: 21 September 2022

Agenda Item:

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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 has adopted a policy and procedures for carrying out surveillance under the Regulation of Investigatory Powers Act 2000 (RIPA).
- 1.2 The policy, and the use of directed surveillance /covert human intelligence sources, is reviewed and reported to the Audit and Standards Committee on an annual basis.

## 2. Recommendations

- 2.1 That the Audit & Member Standards Committee notes the RIPA monitoring report for the 2021-2022 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**.

## 3. Background

- 3.1 The Regulation of Investigatory Powers Act (RIPA) was introduced in 2000 to give public authorities a legal framework to follow if they are carrying out surveillance.
- 3.2 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.
- 3.3 This requirement relates to the use of *directed surveillance* and *covert human intelligence sources* (CHIS).
- 3.4 **Directed Surveillance** is defined as surveillance which is covert and pre-planned, but not intrusive and undertaken:
  - For the purpose of a specific investigation or operation
  - In such a manner as is likely to result in obtaining private information about a person.
- 3.5 It does not include surveillance which is an immediate response to events or circumstances where it is not reasonably practicable to obtain an authorisation.

3.6 **A CHIS** is a person who establishes or maintains a relationship with a person in order to covertly obtain or disclose information.

#### Use of directed Surveillance and CHIS

3.7 The Council has not used directed surveillance during the review period.

3.8 There have also been no authorisations for the use of CHIS.

#### Training

3.9 The RIPA Co-ordinator and all Authorising Officers completed training on 3 February 2021.

#### Annual Review of Policy

3.10 The Investigatory Powers Commissioner's Office completed an inspection in February 2021 and noted the failure to undertake an annual review of the RIPA policy and procedures in 2020 due to Covid pressures.

3.11 An annual report on the use of RIPA has been provided to members each year, but the policy and procedures have not been reported since their introduction in 2018. This will now form part of the annual report going forward.

3.6 The policy at Appendix 1 addresses the use of social media, and what constitutes surveillance requiring authorisation. This is of particular relevance given the widespread use of social media and will form an important component of officer training.

Alternative Options	Obligations arising under RIPA for the authority are statutory therefore the only option is compliance.
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
Financial Implications	Support for the RIPA obligations and functions are met from existing budget and existing staff resources.
Approved by Section 151 Officer	
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.
Approved by Monitoring Officer	Yes
Contribution to the Delivery of the Strategic Plan	A good council.

<p><b>Equality, Diversity and Human Rights Implications</b></p>	<p>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.</p>
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<p><b>Environmental Impact</b></p>	<p>None arising from this report.</p>
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<p><b>Crime &amp; Safety Issues</b></p>	<p>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.</p>
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<p><b>GDPR/ Privacy Impact Assessment</b></p>	<p>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.</p>
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	Risk Description & Risk Owner	Original Score (RYG)	How We Manage It	Current Score (RYG)
A	Failure to obtain RIPA authorisation or comply with RIPA	LIKELIHOOD IMPACT SEVERITY	Regular Training/Keeping Records of authorisation/Notifying staff of changes to procedure/policy	LIKELIHOOD IMPACT SEVERITY
B	Staff using covert practices unwittingly	LIKELIHOOD IMPACT SEVERITY	Regular training and awareness sessions/reminders	LIKELIHOOD IMPACT SEVERITY

<p><b>Background documents</b></p>	
<p><b>Relevant web links</b></p>	