

# REGULATION OF INVESTIGATORY POWERS

## ACT 2000

Report of the Monitoring Officer

Date: 20 July 2023  
Agenda Item: 10  
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Key Decision? NO  
Local Ward Members No

Lichfield  
district council

## AUDIT & MEMBER STANDARDS COMMITTEE

### 1. Executive Summary

- 1.1 The policy and procedures for carrying out surveillance under the Regulation of Investigatory Powers Act 2000 (RIPA) is reviewed and reported to the Audit and Standards Committee on an annual basis.
- 1.2 The Council has not carried out surveillance under RIPA in 2022/23, and no such surveillance has been used for approximately 10 years.
- 1.3 The policy will be reviewed again in July 2024 and a report brought to Audit and Member Standards Committee.

### 2. Recommendations

- 2.1 That the Audit and Member Standards Committee notes the RIPA monitoring report for the 2022/23 financial year.
- 2.2 That the Audit and Member Standards Committee approves the updated 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.
- 3.7 The Council has not used directed surveillance during 2022/23 and there has been no authorisations for the use of CHIS.
- 3.9 The RIPA Co-ordinator, all Authorising Officers and Wider Leadership Team undertook refresher RIPA training on 28 June 2023. The RIPA Co-ordinator will ensure additional training on covert surveillance of social media is scheduled for Wider Leadership Team by a specialist in this area before RIPA is officially engaged.
- 3.10 Minor amends have been made to the Corporate Policy and Procedure for RIPA as highlighted in Appendix 1. Feedback from our Legal Service has been sought prior to updating the document.

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| 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 legal, staff using any form of overt or covers surveillance and investigation techniques. The updated policy reflects comments and observations from Investigatory Powers Commissioner (IPCO) |
| Financial Implications                             | Support for the RIPA obligations and functions are met from existing budget and existing staff resources.  |
| Approved by Section 151 Officer                    | Yes  |
| 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.  |

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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. |
| EIA logged by Equalities Officer                                  | Equalities Officer confirmed not required.   |
| Crime & Safety Issues   | None arising from this report.   |
| Environmental Impact (including Climate Change and Biodiversity). | None arising from this report.   |
| 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.   |

|   | 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: Green<br>Impact: Yellow<br>Score: Yellow | Regular Training/Keeping Records of authorisation/Notifying staff of changes to procedure/policy | Likelihood: Green<br>Impact: Green<br>Score: Green |
| B | Staff using covert practices unwittingly                 | Likelihood: Green<br>Impact: Yellow<br>Score: Yellow | Regular training and awareness sessions/reminders  | Likelihood: Green<br>Impact: Green<br>Score: Green |
|   |  | <b>Background documents</b><br>None                  |  |  |

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|  | <b>Relevant web links</b><br><a href="http://www.gov.uk">Regulation of Investigatory Powers Act 2000 (RIPA) - GOV.UK (www.gov.uk)</a> |
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