

REGULATION OF INVESTIGATORY POWERS ACT 2000

Cabinet member for Finance & Democracy

Date: 25 July 2018
Agenda Item: 9
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Key Decision? NO
Local Ward Members Full Council

Lichfield
district council
www.lichfielddc.gov.uk

**AUDIT &
MEMBER
STANDARDS
COMMITTEE**

1. Executive Summary

- 1.1 To receive the Office of Surveillance Commissioner (OSC) inspection report in relation to the RIPA policy, procedures, documentation and training.
- 1.2 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.
- 1.3 In April 2018 the Office of the Surveillance Commissioner (OSC) conducted an inspection into the RIPA policy, procedures, documentation and training utilised at the Council. It is recommended that the outcome of the inspection be reported to Council on 18 July 2018 for ratification. The Commissioner reported that the recommendations arising from the previous inspection have been implemented and accepted by the Council. RIPA awareness had been raised throughout the Council. The Policy was updated in line with the recommendations of the Commissioner. Training took place in February 2017 and there will be further training events for officers who previously had no RIPA training and forward training for RIPA has been added to the Corporate Training Programme.
- 1.4 The Commissioner has recommended from the current inspection that the RIPA Procedure document allows for Lichfield District Council Investigators to utilise covert surveillance powers to undertake covert observations online, utilising social media and other sites. In order to ensure this activity is subject to suitable oversight it is recommended that the Procedure document should be updated to include control and management oversight mechanisms, including: a register of covert profiles used to undertake surveillance; details of who has used these profiles and when; and a record of what information was recorded, which should be made available to the relevant Authorising Officer for review. The amended RIPA policy incorporating the Commissioners recommendation is attached for consideration by the Committee and thereafter referral to Council for ratification on 18 July 2018. The revised policy will be published. That yearly reports on the use of RIPA powers be submitted to Audit & Member Standards Committee.

2. Recommendations

- 2.1 That the Audit & Member Standards Committee:
 - 1) Endorse the recommendations of the OSC (Appendix A)
 - 2) Refer the findings of the report and changes to the RIPA policy to Council for ratification (Appendix B)
and
 - 3) Endorse the RIPA monitoring report for the last financial year.

3. Background

The RIPA Code of Practice produced by the Home Office in April 2010 and updated in January 2016 introduced the requirement to produce quarterly 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). The Council has not used directed surveillance in the current financial year. In fact there have been no applications under RIPA for 7 years. There have also been no authorisations for the use of CHIS.

Alternative Options	Obligations arising under RIPA for the authority are statutory therefore the only option is compliance.
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Consultation	None.
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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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Contribution to the Delivery of the Strategic Plan	The Council that is Fit for the Future.
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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 to his private and family life, his home and his correspondence, 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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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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	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 changes to procedure/policy	Green
B			

Background documents	
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Relevant web links	
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