

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Audit & Corporate Governance Committee

26th March 2019

AUTHOR/S: Deputy Head of Legal Practice

REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) AMENDMENTS TO POLICY & UPDATE ON USE OF RIPA

Purpose

1. The purpose of this report is to seek the approval of Members of the Audit and Corporate Governance Committee on the revised policy and procedure on the use of covert surveillance under RIPA and to provide an update on the use of RIPA powers since the committee last met.

Recommendations

2. That Audit & Corporate Governance Committee:
 - (a) **AGREE** the recommendations for amendments to the Council's RIPA policy at Appendix A;
 - (b) **NOTE** the information contained in the report about the council's use of surveillance powers between June 2018 – February 2019.

Background

3. RIPA regulates covert investigations by a number of bodies, including local authorities. It was introduced to ensure that individuals' rights are protected while also ensuring that law enforcement and security agencies have the powers they need to do their job effectively.
4. Following a Home Office Review into counter-terrorism and security powers the Protection of Freedoms Act 2012 was passed in May 2012 requiring all local authority surveillance authorised under RIPA to be approved by a Magistrate from November 2012. The council's policy and procedures were amended at that time to reflect these changes.
5. The Council comprehensively reviewed and updated its policy in September 2012 and made further minor amendments as part of annual reviews in September 2013, September 2014 and March 2017.
6. The Investigatory Powers Commissioner's Office is responsible for the inspection of public authorities with regard to compliance with RIPA. The Council was inspected on the 24th May 2018 and the report concluded that the policy, training and oversight regime was very good and made no recommendations.
7. The Executive Director (Corporate Services) is the Senior Responsible Officer for the RIPA process for the Council and the postholder retired from the Council on 31st December 2018.

8. The Senior Responsible Officer has overall oversight of RIPA within the Council and is responsible for reporting to Audit and Corporate Governance Committee on the use of RIPA powers. The SRO is also responsible for:
 - the integrity of the process in place within the public authority to authorise directed surveillance;
 - compliance with Part II of the 2000 Act, and with this code;
 - engagement with the Commissioners and inspectors when they conduct their inspections, and
 - where necessary, overseeing the implementation of any post inspection action plans recommended or approved by a Commissioner

9. There have been no changes to the legislation since the last revision of the policy. However, in August 2018 the Home Office published updated Codes of Practice for covert surveillance and property interference and covert human intelligence sources and changes to the policy have been made based on the new Codes. The Council's intranet has been updated with the new codes of Practice.

Considerations

10. The council's RIPA policy was last updated in 2017 and comprehensive officer training took place in January 2018 and specialist Covert Human Intelligence training in October 2018 which was delivered by PHF Training.

11. It is proposed that Mike Hill who has been an authorising officer since 2011 takes on the responsibility of Senior Responsible Officer and that Rob Lewis and Geoff Clark become authorising officers. All three officers attended the training as detailed in point 10 of the report.

12. Key changes to the policy, based on the revised Codes of Practice, are summarised below
 - Change from the Office of Surveillance Commissioners to the Investigatory Powers Commissioner's Office;
 - Reference has been made to the current Codes of Practice;
 - Wording added to reflect the responsibilities of the Senior Responsible Officer;
 - Wording added to provide further clarity around 'private information';
 - Replacement of Social networks and the Internet to reflect the revised guidance relating to online covert activity;
 - New section added accounting for the use of Aerial covert surveillance;
 - Amended to reflect the change in data protection legislation;
 - Update to Authorising Officers and Senior Responsible Officer;
 - Other minor amendments to ensure correct numbering.

13. A copy of the revised policy is at Appendix A. A track changes version has also been provided to Members of the Committee and is at Appendix A1.

The council's use of RIPA since April 2017

14. The information in the table below summarises the authorisations granted from June 2018 to February 2019.

	Directed surveillance	CHIS	Total	Purpose
June 2018 – March 2019	1	0	0	Fly Tipping in Cottenham – authorisation obtained from Cambridge Magistrates Court in August 2018

Implications

15.	Financial	No implications
	Legal	Authorisation of surveillance activity gives that surveillance “lawful authority” for the purposes of the European Convention on Human Rights
	Staffing	No implications
	Risk Management	See comments under “Legal”
	Equality and Diversity	See comments under “Legal”
	Equality Impact Assessment	No implications
	Climate Change	No implications

Effect on Strategic Aims

16. None identified.

Conclusions / Summary

17. This report proposes amendments to the Council's RIPA policy and updates the Committee on the Council's use of RIPA powers since June 2018.

Background Papers: the following background papers were used in the preparation of this report:

None

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