

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Corporate Governance Committee 26th September 2014
AUTHOR/S: Executive Director (Corporate Services) / Legal & Democratic Services Manager

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

Purpose

1. To update on the use of RIPA powers in the last quarter, note the use of RIPA powers over the last year and as part of an annual review of the Council's policy to make the amendments highlighted in the appendix.

Recommendations

2. That Corporate Governance Committee:
 - (a) **AGREE** the amendments to the Council's RIPA policy highlighted in bold red in the Appendix ;
 - (b) **NOTE** the information contained in the report about the council's use of surveillance powers in the period July to September 2014 and the annual summary of RIPA usage.
 - (c) **NOTE** the intention of the Office of the Surveillance Commissioner to carry out an inspection of SCDC's use of RIPA in November.

Background

3. The Regulation of Investigatory Powers Act 2000 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 on 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 an annual review in September 2013.
6. The Annual Report of the Chief Surveillance Commissioner was published on the 4th September 2014 and received by SCDC on the 10th September:-
<https://www.gov.uk/government/publications/annual-report-of-the-chief-surveillance-commissioner-for-2013-to-2014>
7. The Office of the Surveillance Commissioner is responsible for regulating surveillance conducted by public authorities. This is done through a programme of inspections,

followed by a report of the inspection findings. Inspections are usually conducted with little or no notice. Local authorities are subject to inspection every third year, with SCDC last being visited in 2011, and SCDC have just received notification that the next inspection will be on the 4th November 2014. The inspection report should be available to be reported to the next Corporate Governance Committee.

Considerations

8. The attached draft policy has been updated and amended to take into account the recent Commissioners report. Aside from changes to the format and some minor changes to language the main changes, which are highlighted in bold red font, aim to recognise that some activities undertaken by the Council could inadvertently become surveillance.
9. It is not unlawful for a local authority to conduct surveillance without RIPA authorisation but RIPA provides a safeguard to ensure that if the application is properly made the authority is protected from potential civil claims by those subjected to surveillance. There are times where it is justifiable and necessary to conduct surveillance without RIPA authorisation, for example in disciplinary investigations. The policy now includes a section setting out a process mirroring RIPA authorisation, except there is no approval from a magistrate required (this is not an amendment).
10. In his latest report the Surveillance Commissioner has noted (at para.127): *“I strongly advise all public authorities empowered to use RIPA to have in place a corporate policy on the use of social media in investigations”* and, at para. 5.39 *“My Inspectors ... occasionally discover activities that ought to have been authorised, particularly, for example, in social media monitoring”*.
11. The draft amended policy has been updated to incorporate the use of social media in investigations and also to seek to ensure that consideration is given across SCDC to all activities, which may constitute surveillance, which should be RIPA authorised or otherwise authorised as per the SCDC policy as non-RIPA surveillance. This will ensure that any Human Rights impact on those under investigation and those who may also be observed is properly considered and such activities are properly authorised. The aim is not to introduce unnecessary bureaucracy but to ensure that proper consideration is given and that SCDC can justify its actions in all cases.

The council’s use of RIPA in Quarter 4 2014

12. The information in the table below outlines the authorisations granted by the council during the fourth quarter of the year 2013/14.
13. Although there were no formal RIPA authorisations in the last quarter there was one non-RIPA authorisation of surveillance, which was in relation to a sickness absence case as part of an HR investigation.

Quarter	Directed surveillance	CHIS	Total	Purpose
July - Sept 2014	0	0	0	n/a

Annual summary of the Council's use of RIPA (September 2013 – September 2014)

14. The information in the table below summarises the authorisations granted by the council in the last year, from September 2013 to September 2014. As the Committee is aware from its quarterly update reports there have been no such authorisations.

Sept 2013- Sept 2014	Directed surveillance	CHIS	Total	Purpose
October 2013 – December 2013	0	0	0	n/a
January 2014 – March 2014	0	0	0	n/a
April 2014–June 2014	0	0	0	n/a
July 2014 – September 2014	0	0	0	n/a

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 completed	No adverse impact
	Climate Change	No implications

Effect on Strategic Aims

13. None identified.

Conclusions / Summary

14. This report outlines proposed amendments to the Council's RIPA policy and updates the Committee on the Council's use of RIPA powers in the last quarter, along with an overview of the last year. Relevant staff will receive up-date training on the application of the amendments to the policy shortly.

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

Annual Report of the Chief Surveillance Commissioner for 2013 to 2014

Contact Officer: Fiona McMillan – Legal & Democratic Services Manager
Telephone: (01954) 713027