

NORTH LINCOLNSHIRE COUNCIL

CABINET

**REGULATION OF INVESTIGATORY POWERS ACT 2000
(RIPA)**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To inform Cabinet of the latest developments relating to RIPA with proposals as to how these should be dealt with.

2. BACKGROUND INFORMATION

- 2.1 RIPA creates a regulatory framework to govern the way public authorities handle and conduct covert investigation. This includes covert surveillance directed at a person(s); the use of a "covert human intelligence source" (CHIS) which involves the establishing of a relationship for the covert purpose of obtaining information and access to communications data such as telephone subscriber details and itemised phone logs.
- 2.2 RIPA provides for a system of authorisation so as to secure the lawfulness of surveillance activities and ensure that they are consistent with obligations under the Human Rights Act 1998.
- 2.3 The Council's main use of RIPA relates to directed surveillance activities. There is little use of CHIS or access to communications data. The value of RIPA is in the obtaining of evidence to support criminal prosecutions in e.g. benefit fraud, trading standards cases.
- 2.4 The Council is inspected every two years by the Office of Surveillance Commissioners on its use of RIPA and guidance is usually given on developments and practical issues.
- 2.5 The Council has a RIPA policy which is located on the website and has been deposited in group offices. Amendments were made to the policy in 2009 relating to the authorisation procedure to be followed when RIPA applications are made.
- 2.6 A RIPA Awareness working group comprising representatives of relevant service areas meets every quarter to discuss items of common

interest and share information. Training sessions are also organised for authorising officers and those who need to make applications for RIPA authorisations.

2.7 As a result of concerns which had been expressed over the way in which RIPA had been used by a number of authorities the Local Government Association last year asked Councils to review their use of the powers to respond to residents' complaints about serious crime such as fly tipping, rogue traders and benefit fraud rather than less serious matters. The previous Government also launched a review into the working of RIPA.

2.8 The outcome of this review is that a new Order (The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources Order 2010 (the Order) and revised Codes of Practice have been issued containing the following main changes -

The Order

- maintains the grounds for which an authorisation can be given i.e. for the purpose of preventing or detecting crime or of preventing disorder
- revises the prescribed officers who can sign authorisations to be Director, Head of Service, Service Manager or equivalent

The Codes

- within every public authority it is considered good practice for a senior responsible officer to be made accountable for -
 - the integrity of the process in place within the authority for the management of CHIS.
 - compliance with RIPA and with the Codes
 - oversight of the reporting of errors to the relevant Commissioner and the identification of both the cause of errors and the implementation of processes to minimise the repetition of errors
 - engagement with the Office of Surveillance Commissioners Inspectors when they conduct their inspections
 - where necessary oversight of the implementation of post inspection plans approved by the relevant Commissioner

- within local authorities the senior responsible officer should be a member of the corporate leadership team and should be responsible for ensuring that all authorising officers are of an appropriate standard in light of any recommendations in the inspection reports prepared by the Office of the Surveillance Commissioner. Where an inspection report highlights concerns about the standards of authorising officers this individual will be responsible for ensuring the concerns are addressed.

- Councillors should review the authority's use of RIPA and set the policy at least once a year.
- Councillors should also consider internal reports on the use of RIPA on at least a quarterly basis to ensure that it is being used consistently with the council's policy and that the policy remains fit for purpose. They should not however be involved in making decisions on specific authorisations.
- The authorisation level when knowledge of confidential information is likely to be acquired or when a vulnerable individual or juvenile is to be used as a source is the Head of Paid Service or (in his absence) the person acting as Head of Paid Service.

2.9 It is understood that the new Coalition Government will be including a further review of these powers in the Queen's Speech.

3. OPTIONS FOR CONSIDERATION

3.1 The provisions are either statutory or good practice which the Office of the Surveillance Commissioner will expect to be adopted. The requirements as regards authorising officers are already met by the policy. Options as to the appointment of a senior responsible officer would seem to be between the Chief Executive or the Monitoring Officer. There is no further guidance as regards how councillors are to be involved. Accordingly this could be by way of reporting to a Cabinet Member or Cabinet itself.

4. ANALYSIS OF OPTIONS

4.1 The senior responsible officer could be the Chief Executive by virtue of the nature of the post or the Monitoring Officer as a number of functions relating to RIPA e.g. arranging training, convening meetings of the awareness working group and keeping the Register of Authorisations are dealt with in Legal and Democratic Services.

4.2 In view of the recent national concerns regarding the use of RIPA and to demonstrate the seriousness which the council attaches to its proper use the quarterly internal reports could be made to the appropriate Cabinet Member and Lead Members. If the option of Monitoring Officer were chosen as the senior responsible officer this would be the Cabinet Member for Corporate Services. The annual review (including policy setting) could be undertaken by Cabinet.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 The bulk of the provisions are already in place and the remainder can be accommodated within current resources.

6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)

6.1 The provisions are either statutory requirements or good practice.

6.2 There are no environmental, diversity or risk implications.

6.3 Section 17 functions will be incorporated in the proportionality and necessity tests which form part of the authorisation process.

7. OUTCOME OF CONSULTATIONS

7.1 The Order and Codes were issued by Government after national consultations with relevant bodies and take into account comments made.

8. RECOMMENDATIONS

8.1 That the RIPA Policy be noted and endorsed.

8.2 That the Service Director Legal and Democratic as Monitoring Officer be designated "Senior Responsible Officer".

8.3 That quarterly reports be submitted to the Cabinet Member for Corporate Services (and Lead Members) on the use of RIPA.

8.4 That annual reports on RIPA and RIPA policy be submitted to Cabinet.

SERVICE DIRECTOR LEGAL AND DEMOCRATIC

Pittwood House
Ashby Road
SCUNTHORPE
North Lincolnshire
DN16 1AB
MW/LMK
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