

SUBJECT:	REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) UPDATE
DIRECTORATE:	CHIEF EXECUTIVE AND TOWN CLERK
REPORT AUTHOR:	BECKY SCOTT, LEGAL SERVICES MANAGER

1. Purpose of Report

1.1 To report the number of authorisations under RIPA since the last report to Executive and seek comments on the revised Policy.

2. Background

2.1 The Council has a RIPA Policy which covers implications for all staff who investigate suspected criminal offences and other breaches of regulations for which the Council is responsible. The Policy includes the procedures for obtaining authorisations and together these explain:

- the purpose of the Act in relation to the Council's functions
- the circumstances which it applies to
- how to make sure that it is complied with
- functions of the Central Register
- process for authorisations
- details for authorisations
- and provides guidance on the use of Social Media in investigations as well as guidance on the use of Covert Human Intelligence Source (CHIS) and how to obtain a CHIS authorisation

2.2 The RIPA Policy was firstly approved by the Executive in June 2016 and has since been amended. The Policy has now been further reviewed and updated. The changes include the following:-

- Updating some administrative elements
- Including the updated Social Media guidance and form which have previously been issued as guidance alongside the policy, to add weight to those requirements
- Included additional information about reporting breaches
- Incorporating the use of drones for Covert Surveillance
- Expands on the legal test of necessary and proportionality to help officers understand these and the Directed Surveillance Crime Threshold.
- Formalising the ability of the Monitoring Officer to review complaints from members of the public arising from our use of a RIPA or CHIS authorisation
- Sets out guidance for Authorising Officers on the review, renewal and cancellation of authorisations

- Recognises a duty of care to a CHIS
- Inserts links to the government CHIS and Directed Surveillance forms.

A clean version is attached at Appendix A.

- 2.3 The Council was inspected by the Investigatory Powers Commissioner's Office in July 2019. The report stated:-

The inspection has shown that City of Lincoln Council has appropriate written procedures, appropriate training and a robust system of permissions with good management oversight prior to anyone conducting social media research, which legitimately avoids the need for covert authorisations.

...
There was abundant evidence of good practice. The investment in training, the existence of sound policies and procedures, as well as the existence of good management and legal oversight of research that could require a RIPA authorisation if not correctly managed, demonstrated that City of Lincoln Council has made appropriate and reasonable efforts to guard against unauthorised RIPA activity.

Officers do not know whether a further inspection will be done, however it has been suggested that this would be a remote one rather than face to face in future. The Council has recently received a request by the Investigatory Powers Commissioner's Office for our annual return in respect of authorisations.

- 2.4 In August 2018 the following revised Codes were implemented:-

- a) Covert Surveillance and Property Interference
- b) Covert Human Intelligence Sources

The Codes are referenced in the RIPA policy.

- 2.5 We have previously issued a briefing note to all relevant managers about the use of Social Media as a result of the revised Codes being implemented and provided additional guidance about this area. This was rolled out in Netconsent. The Codes did not change the legislation in any way, nor affect the content of the Council's policy, however it gives more guidance on the term 'private information' and provides examples about how to apply the Codes and the legislation.
- 2.6 The Legal team most commonly offer support to service areas as and when they are investigating issues which could benefit from using social media, as opposed to advising on seeking formal authorisations to carry out surveillance.
- 2.7 This policy, if approved, will be taken into Service Managers Forum and rolled out on Netconsent for relevant enforcement teams and an offer will be made to give tailored training by the Legal Services team as required.
- 2.8 There have been no authorisations applied for nor obtained through the Magistrate's Court to carry out any covert surveillance since the last report to Executive, when there were also none. This is something which we are obliged to report to Executive under the framework.

2.9 The draft Policy and appendices were presented to Policy Scrutiny Committee on 15 February 2022 and a member asked if this Policy would have an effect on the cameras for fly tipping. It was confirmed that that it would not apply as the cameras were used for open surveillance. Otherwise, members were happy with the proposed changes.

3. Organisational Impacts

3.1 Finance

There are no finance implications in this report.

3.2 Legal Implications

As outlined in the report.

3.3 Equality, Diversity & Human Rights

The Public Sector Equality Duty means that the Council must consider all individuals when carrying out their day-to-day work, in shaping policy, delivering services and in relation to their own employees.

It requires that public bodies have due regard to the need to:

- Eliminate discrimination
- Advance equality of opportunity
- Foster good relations between different people when carrying out their activities

The Council's RIPA policy enhances transparency in decision-making. For any authorisation applied for, the Council will ensure that requests consider any potential impact on individuals and groups who share protected characteristics.

4. Risk Implications

4.1 (i) Options Explored

It is a requirement to review this policy and update it accordingly.

4.2 (ii) Key Risks Associated with the Preferred Approach

None.

5. Recommendation

5.1 That members consider the revised Policy and approve the same.

Is this a key decision?

No

Do the exempt information categories apply?

No

Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply?

No

How many appendices does the report contain?

One

List of Background Papers:

None

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