

BOROUGH OF KETTERING

Committee	COUNCIL	Item 15	Page 1 of 3
Report Originator	Martin Hammond, Monitoring Officer	<i>Fwd Plan Ref No:</i>	
Wards Affected	All	27 th February 2019	
Title	REGULATION OF INVESTIGATORY POWERS (RIPA)		

1. PURPOSE OF REPORT

- 1.1 To present the revised Regulation of Investigatory Powers (RIPA) Policy for approval by Council following its recommendation by the Research and Development Committee

2. INFORMATION

- 2.1 The Regulation of Investigatory Powers Act 2000 (RIPA) is concerned with the regulation of surveillance by public authorities in the conduct of their legitimate business to ensure that, in conducting such surveillance, public authorities have regard to the Human Rights Act – the right to a private and family life.
- 2.2 Since 1st November 2012 local authorities have been required to obtain judicial approval prior to using covert surveillance techniques. Additionally, since this date, local authority use of directed surveillance under RIPA has been limited to the investigation of crimes which attract a six month or more custodial sentence, with the exception of offences relating to the underage sale of alcohol and tobacco. The forms of surveillance that the council is entitled to undertake, subject to approval by the Magistrates Court, are covert directed surveillance and the use of Covert Human Intelligence Services known as CHIS.
- 2.3 Over the past three years there have been no authorisations of covert surveillance by the council for a number of reasons, including:
- The transfer of benefit fraud investigation to the DWP
 - The constraints introduced by the change in legislation
 - Concentration on deterrence rather than prosecution
 - Concentration of overt surveillance techniques as a means of investigation in preference to covert surveillance
- 2.4 The Council is only likely to use CHIS in very exceptional circumstances, and has to date never authorised their use since RIPA was introduced.
- 2.5 Despite the Council not regularly using covert surveillance, it is still required to maintain a RIPA Policy, and monitor potential surveillance activity. The current policy is out of date, and does not incorporate recent legislative changes. The policy has been updated, and a revised policy is attached at **Appendix A**.

BOROUGH OF KETTERING

Committee	COUNCIL	Item 15	Page 2 of 3
-----------	----------------	------------	----------------

- 2.6 The Council has recently been the subject of a routine desktop based documentary inspection by the Investigatory Powers Commissioner's Office, and the revised Policy complies with the requirements of IPCO.
- 2.7 IPCO recommended that, despite the council's limited use of RIPA, it would benefit from providing role specific and wider awareness training to a number of officers who might potentially use surveillance techniques in their role. For example, looking at the public Facebook account of a service user does not require approval as covert surveillance, but officers need to understand their responsibilities in these areas. Training has been provided to a group of officers on 24th January 2019.
- 2.8 An authorisation to conduct surveillance and/or CHIS can only be given by appropriately designated officers within the council, prior to authorisation by the Magistrates Court before any surveillance can proceed. The list of officers so authorised has been updated, following the IPCO inspection, and is included within the revised policy.
- 2.9 The council must keep a central record of all authorisations, which is held by Legal Services (although there are no recent authorisations). IPCO has recommended that the council reports RIPA activity annually to Full Council, even if there has been no covert surveillance, and a report will be prepared for Annual Council in 2019, when it is intended that the revised policy annexed is referred.
- 2.10 In preparing for the IPCO inspection, it came to light that various different teams across the Council have developed different policies and procedures for dealing with covert surveillance, such as CCTV and dashcams. It would be sensible to review and streamline policies, and although this is not a RIPA issue, it is worth noting that this work will be done in coming months. It is sensible to do this despite the potential pending reorganisation into unitary councils, as the new councils will carry out surveillance activity, and this work will stand Kettering Borough Council in good stead for the transition.

3. CONSULTATION AND CUSTOMER IMPACT

- 3.1 The Council's surveillance activities do have the potential to have customer impact. It is therefore necessary to ensure that the council's policy and activities are maintained in accordance with current legislation, hence the update policy being presented. There is no need for consultation, as the council does and will comply with established legislation.
- 3.2 This report and the appended revised policy were submitted to the Research and Development Committee at its meeting on 6th February 2019 and the committee recommended that it be submitted to Council for approval without amendment

BOROUGH OF KETTERING

Committee	COUNCIL	Item 15	Page 3 of 3
-----------	----------------	------------	----------------

4. **POLICY IMPLICATIONS**

- 4.1 If adopted by Full Council, the revised RIPA Policy will form part of the Council's Code of Corporate Governance, and will be kept under regular review.

5. **FINANCIAL RESOURCE IMPLICATIONS**

- 5.1 None directly from this report.

6. **HUMAN RESOURCE IMPLICATIONS**

- 6.1 The cost of providing the training referred to in 2.7 above has been met from existing central training budgets. There are no other HR implications arising directly from this report.

7. **LEGAL IMPLICATIONS**

- 7.1 The Council must adopt a RIPA policy which complies with current legislation. The revised draft attached is consistent with current legislation.

8. **RECOMMENDATION**

- 8.1 That Council consider and approve the revised RIPA Policy

Background Papers:

Title

Date

Contact Officer

Previous Minutes/Reports:

Ref:

Date: