



Governance Scrutiny Group

Thursday, 23 November 2023

Review of Regulation of Investigatory Powers Act Policy

Report of the Monitoring Officer

1. Purpose of report

- 1.1. The Investigatory Powers Commissioners Office (IPCO) requires that councillors are updated annually on the Council's use of powers under the Regulation of Investigatory Powers Act (RIPA) to ensure compliance with the legislation.
- 1.2. One of the requirements under RIPA is that an annual review of the Council's RIPA policy is undertaken to ensure that it remains up to date and fit for purpose.

2. Recommendation

It is RECOMMENDED that Governance Scrutiny Group:

- a) Consider the information provided regarding the Council's use of RIPA powers
- b) Endorse the updates to the Council's RIPA policy in line with the IPCO Inspection recommendations.

3. Reasons for Recommendation

Whilst the Council does not actively make use of its RIPA powers as a rule, it is important that councillors are aware of RIPA, the policy and its usage, or otherwise.

4. Supporting Information

- 4.1. Under RIPA, local authorities have the power to authorise directed surveillance (usually covert cameras or covert observations by officers) and the use of Cover Human Intelligence Sources (CHIS) (essentially undercover officers conducting surveillance). Authorisation should only be granted for such surveillance if it is considered necessary for the prevention and detection of crime or preventing disorder, and, if the surveillance is proportionate to the aims it seeks to achieve. Since 1 November 2012, any RIPA authorisations or renewals must also have judicial approval from a Justice of the Peace, this would be done at Nottingham Magistrates' Court.

- 4.2. The authorisations under RIPA can only be given by 'Authorising Officers' who for Rushcliffe Borough Council are the Chief Executive, the Director for Neighbourhoods and the Service Manager for Public Protection. The entire process is now overseen by the Monitoring Officer as the Senior Responsible Officer (SRO).
- 4.3. The Council's RIPA processes and procedures come under regular scrutiny. Each year, the SRO undertakes an audit of RIPA usage. There have been no authorisations given for directed surveillance or the use of covert human intelligence sources in the year 2022/23.
- 4.4. In addition to monitoring RIPA usage, the SRO is required, in line with the Council's policy to ensure refresher training on RIPA is available to officers on a regular basis. This training is available via an online module and HR maintain a list of those who have completed this training and when this was done. Each of the Authorising Officers has also undertaken training in respect of the authorisation process and criteria to consider.
- 4.5. In addition to the internal annual audit, policy review and report to scrutiny every three years, IPCO carry out an inspection of the Council's records and interview relevant officers to ensure that there is compliance with the appropriate legislation.
- 4.6. Our most recent inspection was undertaken and concluded satisfactorily in August 2023. Following this inspection, the inspector has suggested several changes to the Council's RIPA policy which have been made, the revised policy is attached at Appendix 1. The main changes are as follows:
- Section 3 – updated to acknowledge the impact of the IPA and properly set out the roles of the IPC and IPCO
 - Section 6 – amendments to the CCTV reference to our CCTV policy
 - Section 6 – updated social networking section
 - Section 8 – updated to make it clear that all authorisations must be cancelled, not allowed to lapse
 - Chapter 3 (CHIS) – Juvenile CHIS authorisation period amended to read 4 months
 - All links have been reviewed and updated.
- 4.7. The Nottinghamshire and Derbyshire District RIPA working group provides the opportunity to share best practise in relation to RIPA usage and share training opportunities and knowledge. This group has been amalgamated with the Nottinghamshire Information Officers Group as the majority of the members were the same. This Group is currently chaired by Greg Dwyer – Rushcliffe's Chief Information Officer. This group meets at least every three months and is another mechanism by which the Council ensures that compliance with RIPA is maintained and knowledge kept up to date.
- 4.8. Regardless of the level of use of RIPA powers, the Council will continue to be subject to inspection in relation to its use of the powers by the IPCO and as such the Council's policy, processes, training and review of RIPA usage must continue, to ensure they remain fit for purpose.

5. Risks and Uncertainties

- 5.1. If the Council fails to keep its RIPA policy up to date it will fail to comply with the requirements of the relevant legislation.

6. Implications

6.1. Financial Implications

There are no additional financial implications arising from this report. The cost of training and other related RIPA activity are expected to be met from existing budgets.

6.2. Legal Implications

Where the Council wishes to carry out covert surveillance in relation to an investigation, compliance with RIPA ensures that any such surveillance is properly authorised, and full consideration is given to its necessity and proportionality. Where covert surveillance is conducted under a RIPA authorisation, this provides a potential defence to any claim that the surveillance amounted to a breach of the individual's right to privacy under the Human Rights Act 1998. Whilst RIPA authorisations are limited to specific circumstances for local authorities, the council must still maintain appropriate processes and procedures to demonstrate compliance with RIPA, this includes ensuring that an appropriate policy document is maintained.

6.3. Equalities Implications

There are no equalities implications arising directly out of this report. No RIPA investigations have been conducted by the Council and so there is no data against which to assess the potential equalities aspects of RIPA use. If the Council sought to use RIPA powers at some point, the equalities aspects would be considered at that time.

6.4. Section 17 of the Crime and Disorder Act 1998 Implications

RIPA allows the Council to legally make use of investigatory practices which could be utilised to protect communities from illegal activities.

6.5. Biodiversity Net Gain

There are no BNG implications resulting from the work set out in this report.

7. Link to Corporate Priorities

The Environment	Fair and effective enforcement can be used as a tool to protect and enhance both the natural and built environment.
Quality of Life	Fair and effective enforcement is essential for the protection

	of the individual and the community as a whole.
Efficient Services	This Policy sets out the powers available to the Borough Council and the criteria which are applied when decisions are made around the utilisation of these powers.
Sustainable Growth	The recommendations in this report do not impact on or contribute to the Council's Sustainable Growth priority.

8. Recommendations

It is RECOMMENDED that Governance Scrutiny Group:

- a) Consider the information provided regarding the Council's use of RIPA powers
- b) Endorse the updates to the Council's RIPA policy in line with the IPCO Inspection recommendations.

For more information contact:	Gemma Dennis Monitoring Officer gdennis@rushcliffe.gov.uk
Background papers available for Inspection:	None
List of appendices:	Appendix 1: Revised RIPA Policy