



## **Governance Scrutiny Group**

**Thursday, 28 November 2024**

## **Regulation of Investigatory Powers Act 2000 (RIPA) Review**

### **Report of the Monitoring Officer and Head of Chief Executive's Department**

#### **1. Purpose of report**

- 1.1. The Investigatory Powers Commissioner's Office (IPCO) requires that councillors are updated annually on the Council's use of powers under the Regulation of Investigatory Powers Act 2000 (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 the Governance Scrutiny Group:

- a) Considers and notes the information contained within this report regarding the Council's use of RIPA powers; and
- b) Endorses the updates to the Council's RIPA Policy at Appendix 1 to this report.

#### **3. Reasons for Recommendation**

- 3.1. To comply with statutory obligations and guidance. 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, which would be obtained from Nottingham Magistrates' Court.

- 4.2. 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 Head of Service for Public Protection. Where knowledge of confidential or privileged information is likely to be acquired directed or intrusive surveillance, enhanced authorisation is required and approval by the Chief Executive as Head of Paid Service is required. 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. Under the Council's RIPA policy, councillors are required to consider and review the Council's use of RIPA powers and its policy and guidance at least once a year. The Corporate Scrutiny Group last received a report in November 2023. Each year the SRO undertakes an audit of RIPA usage. There have been no authorisations given for directed surveillance or the use of CHIS since the last report.
- 4.4. In addition to monitoring RIPA usage, the SRO is required, in line with the Council's policy to ensure training on RIPA is available to officers on a regular basis. This training is to be delivered to relevant officers via an online module and HR maintain a list of those who have completed this training and when this was done. As at 21 October 2024, 33 employees have undertaken refresher training in the last 12 months. 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. The last inspection was undertaken in 2023 and was concluded satisfactory. Amendments to the Council's RIPA Policy recommended by the IPCO were completed in November 2023.
- 4.6. 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. The Council will be due its next inspection in 2026 and it is expected that this will again involve a paper-based exercise, where details of the Council's RIPA usage, governance, procedures, policy, and training will be considered.
- 4.7. The SRO has undertaken the annual review of the Council's RIPA Policy and updated it accordingly. The SRO has taken account of the Covert Surveillance Code of Practice published by the Home Office in February 2024. The revised policy is attached at Appendix 1. Definitions have been updated and/or further information added for clarity. Part III has been updated to include reference to the requirement for the National Anti-Fraud Networks to act as the single point of contact for communications data and the link to the Home Office forms and Codes of Practice have been updated.

## **5. Alternative options considered and reasons for rejection**

There are no alternative options as the Council is obliged to scrutinise its RIPA activities, and review its RIPA policy, on an annual basis.

## **6. Risks and Uncertainties**

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

## **7. Implications**

### **7.1. 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.

### **7.2. 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.

### **7.3. 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.

### **7.4. 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 and therefore have positive impacts on community safety.

### **7.5. Biodiversity Net Gain Implications**

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

## 8. 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 individuals and the community as a whole
Efficient Services	The Policy sets out the powers available to the 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.

## 9. Recommendations

It is RECOMMENDED that the Governance Scrutiny Group:

- a) Considers and notes the information contained within this report regarding the Council's use of RIPA powers; and
- b) Endorses the updates to the Council's RIPA Policy at Appendix 1 to this report.

<b>For more information contact:</b>	Sara Pregon Monitoring Officer Tel: 0115 9148480, SPregon@rushcliffe.gov.uk
<b>Background papers available for Inspection:</b>	None
<b>List of appendices:</b>	Appendix 1: Revised RIPA Policy November 2024