



**AGENDA ITEM: 5(n)**

**AUDIT AND GOVERNANCE  
COMMITTEE:  
29 SEPTEMBER 2015**

**CABINET:  
10 NOVEMBER 2015**

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**Report of: Director of People and Places**

**Relevant Head of Service: Borough Solicitor**

**Contact for further information: Mr T P Broderick (Ext 5001)**  
(E-mail: [terry.broderick@westlancs.gov.uk](mailto:terry.broderick@westlancs.gov.uk))  
**J C Williams (Extn. 5512)**  
(E-mail: [judith.williams@westlancs.gov.uk](mailto:judith.williams@westlancs.gov.uk))

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**SUBJECT: REGULATION OF INVESTIGATORY POWERS ACT – ANNUAL  
SETTING OF THE POLICY AND REVIEW OF USE OF POWERS**

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Borough Wide Interest

**1.0 PURPOSE OF THE REPORT**

1.1 To report on the Council's use of its powers under the Regulation of Investigatory Powers Act 2000 (RIPA) and to present a revised RIPA Policy document for approval.

**2.0 RECOMMENDATION TO AUDIT AND GOVERNANCE COMMITTEE**

2.1 That the Council's RIPA activity be noted and any agreed comments be referred to Cabinet.

**3.0 RECOMMENDATION TO CABINET**

3.1 That the revised RIPA Policy document be approved.

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**4.0 BACKGROUND**

4.1 The Regulation of Investigatory Powers Act 2000 (RIPA) came into force in 2000. Both the legislation and Home Office Codes of Practice strictly prescribe the situations in which and the conditions under which councils can use their RIPA powers. All authorities are required to have a RIPA policy and procedure that they adhere to in using their RIPA powers.

- 4.2 The Council's current approved RIPA Policy is made available on the Council's Intranet at <http://wlintranet/intranet/docs/tbripaguidlines24040> and is a working document to assist investigating and co-ordinating officers within the Council. Paragraph 5 of the Guide stresses that grantors must believe the authorised activity is (1) necessary for preventing and detecting crime and (2) is proportionate to what is sought to be achieved in carrying out the surveillance activity (e.g. the 24/7 watching of premises where private individuals may go about their lawful business, for the possibility of gaining collateral evidence for a very minor technical infraction of a byelaw would not in all likelihood be proportionate). If it fails either test, authorisations should not be granted.
- 4.3 The Council's updated RIPA Policy is annexed in Appendix 1. This reflects guidance which has been introduced in accordance with the following Codes of Practice: the Regulation of Investigatory Powers (Covert Surveillance and Property Interference: Code of Practice) Order 2014; the Regulation of Investigatory Powers (Covert Human Intelligence Sources: Code of Practice) Order 2014 and the Acquisition and Disclosure of Communications Data Code of Practice 2015.
- 4.4 The guidance introduced by the 2014 Codes of Practice relates to the use of social media in investigations, and it is noted that in certain circumstances, the use of social media sites, or using the internet for research in other ways could need authorisation as directed surveillance or use of a covert human intelligence source. The guidance in the 2015 Code of Practice follows the passage of the Data Retention and Investigatory Powers Act 2014 which revoked all accreditation that enabled Local Authorities to acquire communications data and placed the responsibility with the National Anti-Fraud Network (NAFN) to provide the SPoC service.

## **5.0 MONITORING OF RIPA ACTIVITY**

- 5.1 In the last quarter and in the last 12 months no covert surveillance has been authorised.
- 5.2.1 The Senior Responsible Officer proactively seeks to ensure that the use of covert surveillance in this authority is well regulated. Applications for authorisation to use covert surveillance must be rejected when the Authorising Officer is not satisfied that the surveillance is necessary or proportionate and legal advice should be sought by Authorising Officers in appropriate cases.
- 5.3 A programme of training is in place and a RIPA guidance note is circulated within the Council at regular intervals to raise awareness. Officers were notified of the new requirements following the issue of the Codes of Practice as regards the use of CHIS and Covert Surveillance of Property Interference.

## **6.0 THE RIPA POLICY**

- 6.1 The RIPA Policy is approved by Cabinet each year. Officers ensure the use of RIPA is consistent with the Council's Policy and regularly report on activity.

## **8.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

8.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder. The report has no significant links with the Sustainable Community Strategy.

## **9.0 FINANCE AND RESOURCE IMPLICATIONS**

9.1 There are no additional significant financial and resource implications arising from this report.

## **10.0 RISK ASSESSMENT**

10.1 The Council could be in breach of the relevant legislation if it does not follow the procedures set out in the RIPA Orders and Codes. This could result in the inadmissibility of evidence and the possibility of breaches of the Human Rights Act 1990.

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## **BACKGROUND DOCUMENTS**

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this report.

### **Equality Impact Assessment**

This will be considered in relation to any particular authorisation.

### **Appendices**

Appendix 1 - Updated Policy

Appendix 2 – Minute of the Audit & Governance Committee held on 29 September 2015 (Cabinet only)