



**AUDIT AND GOVERNANCE
COMMITTEE:
30 OCTOBER 2018**

**CABINET:
15 JANUARY 2019**

Report of: Borough Solicitor

Relevant Portfolio Holder: Councillor I Moran, Leader

Contact for further information: Mr T P Broderick (Ext 5001)
(E-mail: terry.broderick@westlancs.gov.uk)
J C Williams (Extn. 5527)
(E-mail: judith.williams@westlancs.gov.uk)

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

Wards affected: 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 an updated RIPA Policy document for approval.

2.0 RECOMMENDATIONS TO AUDIT AND GOVERNANCE COMMITTEE

2.1 That the Council's RIPA activity and the updated RIPA Policy, at Appendix 1, be noted.

3.0 RECOMMENDATIONS TO CABINET

3.1 That the updated RIPA Policy at Appendix 1 be approved.

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 and is a working document to assist investigating and co-ordinating officers within the Council. Paragraph 5 of the RIPA Policy stresses that grantors of authorisations 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 With the earlier change in powers and the higher level of criminal offence (one that carries a maximum sentence of 6 months or more imprisonment) only capable of being the basis for a RIPA authorised activity, the Council remains vigilant to ensure that not only all RIPA regulated activity is monitored, but also relevant activity that falls below the level of offence or may be caught by the Human Rights Act 1998 is appropriately controlled and has introduced procedures to deal with this. This is good practice as many of the Council's powers relating to regulated activities cover lower level offences not caught by RIPA.

5.0 MONITORING OF RIPA ACTIVITY

5.1 In the last quarter up to the date of the writing of this report (3 October 2018) and indeed in the last 12 months no covert surveillance has been authorised.

5.2 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. Whenever a new Code of Practice is issued by the Government related to the Council's powers, Officers are informed accordingly, with relevant guidance provided as necessary. This training is targeted at relevant officers who will also train appropriately for their enforcement roles.

6.0 THE RIPA POLICY

6.1 The updated RIPA Policy is presented to Cabinet for approval each year as required by guidance (Section 4.47 of the Home Office Covert Surveillance and Property Interference Revised Code of Practice of August 2018 and section 3.30 of the Home Office Covert Human Intelligence Sources Revised Code of Practice of August 2018). Officers ensure the use of RIPA is consistent with the Council's Policy and regularly report on activity, again as is required.

6.2 The Council's updated RIPA Policy is annexed in Appendix 1. This contains (in Appendix 3 of the policy) the current RIPA management structure. The update is not substantial (changes at section 12.3 and Appendix 3 only).

7.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

7.1 There are no significant sustainability impacts associated with this report and, in particular, positive impacts on crime and disorder will be achieved by adhering to RIPA and the RIPA Policy.

8.0 FINANCE AND RESOURCE IMPLICATIONS

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

9.0 RISK ASSESSMENT

9.1 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.

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 was considered in relation to the original formation of the policy and will also form part of any decision on whether or not to authorise action.

Appendices

Appendix 1 – Updated Policy

Appendix 2 - Minute of Audit and Governance (Cabinet only)