



**AUDIT AND GOVERNANCE
COMMITTEE:
5 SEPTEMBER 2017**

**CABINET:
12 SEPTEMBER 2017**

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 RECOMMENDATION 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 RECOMMENDATION 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) and Home Office Codes of Practice strictly prescribe the situations and the conditions in 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. There is a system of rigorous oversight of the use of the powers undertaken by the Office for the Surveillance Commissioner (OSC).

- 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 breach of regulatory legislation may not in all likelihood be proportionate). If it fails either test, authorisations should not be granted.

5.0 MONITORING OF RIPA ACTIVITY

- 5.1 In the last quarter (up to the date of the writing of this report, i.e. 17 August 2017) and in the last 12 months no covert surveillance has been authorised.
- 5.2 Relevant Officers proactively seek to ensure that the use of covert surveillance in this authority is well regulated. Applications for authorisation to use covert surveillance or covert human intelligence sources must be rejected when the relevant Authorising Officer is not satisfied that the surveillance is necessary or proportionate. Legal advice is to be sought by Authorising Officers in appropriate cases. Requests for communications data have not been requested but would be handled through external arrangements, if this were necessary.
- 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, Officers are notified accordingly.

6.0 THE RIPA POLICY

- 6.1 The updated RIPA Policy is presented to Cabinet for approval each year as required by guidance (Section 3.35 of the Home Office Covert Surveillance and Property Interference Code of Practice of December 2014 and section 3.27 of the Home Office Covert Human Intelligence Sources Code of Practice of December 2014). Officers ensure the use of RIPA is consistent with the Council's Policy and regularly report on activity to the OSC.
- 6.2 The Council's updated RIPA Policy is annexed in Appendix 1. On this occasion only very minor amendments have been made as it has not been necessary to significantly revise the RIPA Policy.

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. The report has no significant links with the Sustainable Community Strategy.

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 and potentially fail to meet human rights requirements.

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

1. Appendix 1 – Updated Policy
2. Minute of Audit and Governance Committee (Cabinet only)