

BOROUGH OF KETTERING

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Report Originator	Sue Lyons Head of Democratic and Legal Services	<i>Fwd Plan Ref No:</i>	
Wards Affected	ALL	10 th June 2015	
Title	REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)		

1. PURPOSE OF REPORT

- i) To update members on the use of RIPA powers, in accordance with the requirements of the Office of Surveillance Commissioners
- ii) To inform members of the changes to the RIPA authorisation process
- iii) to approve the revised RIPA Surveillance Policy and the list of Authorised Officers

2. INFORMATION

- 2.1 Local Authorities must have a policy and process in place that is in accordance with the Regulation of Investigatory Powers Act 2000 (RIPA). This report updates the Council's current policy and also provides an update to Members on the implications and use of the policy.
- 2.2 It is worth noting that although the Council must have a policy in place for this, the Council **does not** use covert surveillance in its everyday business.
- 2.3 The Regulation of Investigatory Powers Act 2000 (RIPA) governs how public authorities, including local authorities, use covert investigation techniques such as taking up observation posts, covert CCTV, undercover operations and acquiring communications data. RIPA ensures that any evidence obtained using covert methods is admissible in court and complies with Common Law, the Police and Criminal Evidence Act 1984 and Human Rights Act 1998.
- 2.4 Local authorities can only be authorised to carry out Directed Surveillance (covert surveillance in a public place), use Covert Human Intelligence Sources (informants) and acquire less intrusive types of communications data such as service use and subscriber information. That can only be done to investigate suspected criminal offences carrying a maximum sentence of more than six months imprisonment.
- 2.5 Intrusive surveillance and property interference are reserved for the police and certain other agencies, together with data about where communications are made and received. In all cases, the use of covert surveillance must be

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necessary and the intrusion proportionate to the evidence sought, in order to justify interference with an individual's private life

- 2.6 The Council has a Corporate Policy and Procedures Note on how covert investigation techniques are used to ensure it complies with the stringent requirements of RIPA.
- 2.7 In its everyday business, the Council may use overt surveillance but would only consider using covert surveillance in accordance with the provision of RIPA as a last resort. The majority of evidence can be obtained overtly and if the Council makes their investigation visible this alone can have the desired effect of compliance. In the last three years no RIPA authorisations have been sought and authorised and there have been no requests for communications data.
- 2.8 The RIPA process is overseen nationally by the Office of Surveillance Commissioners (OSC) which undertakes regular inspections of all authorities and examines procedures, forms, record keeping and interviews relevant officers. The Council was last inspected in January 2013 and a further inspection is scheduled for 11th June 2015.

2. LEGAL IMPLICATIONS

- 3.1 The legal framework comprises not only RIPA but also a number of statutory instruments and statutory codes of practice which flesh out the requirements of RIPA and what the Government considers to be acceptable and responsible use of covert investigation techniques. Provisions introduced by the Protection of Freedoms Act 2012 and amendments to the RIPA statutory instruments have made two significant changes to how local authorities use RIPA.
 - All authorisations and notices under RIPA for the use of covert techniques must now be approved by a Justice of the Peace (JP) before they can take effect. There is still, however, a requirement for authorisation to be granted internally first. The role of the JP is to ensure that the Council has followed correct procedures and taken appropriate factors into account;
 - The use of directed surveillance (e.g. covert CCTV, taking up observation posts, following people etc.) is confined to cases where the offence under investigation carries a custodial sentence of six months or more and a limited number of other offences relating to underage sale of alcohol and tobacco.

3. POLICY IMPLICATIONS

- 4.1 The Corporate Policy and Procedure Note was amended to incorporate these changes shortly after they came into force and is attached at Appendix 1 (excluding the forms). The list of Authorised Officers has also been updated to

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reflect the current senior management structure. However it has not been formally adopted and Executive is now requested to do so.

4. CORPORATE OUTCOME

- 5.1 At the last inspection in 2013 it was recommended that the Senior Responsible Officer be designated. In practice there had been no need for any officer to perform this role. Nevertheless to ensure formal compliance it is now requested that the Head of Democratic and Legal Services be formally designated.

6. RECOMMENDATION

1. That the revised RIPA Policy and Procedures Note attached as Appendix 1 be approved
2. That the Head of Democratic and Legal Services be designated as the Senior Responsible Officer for the purposes of RIPA
3. That the Executive notes:-
 - (i) That there has been no use of RIPA for investigation in the last three years, whether by way of covert surveillance or the use of Covert Human Intelligence Sources; and
 - (ii) That there is to be an inspection of the Council on 11th June 2015 by the Office of Surveillance Commissioners to assess compliance with the surveillance requirements of RIPA.