

Report of:	Meeting	Date
Mary Grimshaw, Legal Services Manager	Audit Committee	16 November 2021

Compliance with the Regulation of Investigatory Powers Act 2000 (RIPA)

1. Purpose of report

- 1.1** To review the authority's use of RIPA since it was last considered at the Audit Committee in November 2020.

2. Outcomes

- 2.1** Evidence that the council complies with current legislation.

3. Recommendations

- 3.1** Members are requested to note that there have been no authorisations granted for directed surveillance or covert human intelligence source under the Regulation of Investigatory Powers Act 2000 since 2012.
- 3.2.** Members are requested to note that there are no changes to the RIPA policy which was last updated and approved by the Audit Committee in November 2020. The RIPA policy can be found at the following location.
<https://wyregovuk.sharepoint.com/sites/LegalDepartment/SitePages/Regulation-of-Investigatory-Powers-Act.aspx>

. Background

- 4.1** Local authorities can undertake surveillance and access communications data under the framework of the Regulation of Investigatory Powers Act 2000. These rules set high standards for all public authorities that use these powers to undertake a range of enforcement functions to ensure they can keep the public safe and bring criminals to justice, whilst protecting individuals' rights to privacy.
- 4.2** From 1 November 2012, the Protection of Freedoms Act 2012, became effective. It introduced a more restrictive approach to the use of RIPA by local authorities by limiting the use of direct authorisations to serious crimes, i.e. those crimes punishable by a maximum custodial sentence of

six months or more or those constituting an offence of selling alcohol or tobacco to children. The application must also have judicial approval by a magistrate before an authorisation takes effect and the magistrate needs to be satisfied that there are reasonable grounds for believing that the requirements of RIPA are met.

5. Key Issues and proposals

5.1 The Home Office Code of Practice requires a number of best working practices to be adopted by all public authorities, including:

- An annual review of the authority's use of RIPA to ensure that it is being used consistently and in accordance with the Council's policy; and
- An annual review of the policy ensuring that it remains fit for purpose.

5.2 There is a requirement for the council to nominate a Senior Responsible Officer, who will be responsible for:

- The integrity of the RIPA process in place within the council to authorise surveillance and the covert use of human intelligence source (CHIS);
- Compliance with the legislation and codes of practice;
- Engagement with the Commissioners and inspectors when they conduct their inspections; and
- Overseeing the implementation of any post inspection action plan recommended by the Commissioner.

5.3 There is also a requirement to have a Senior Responsible Officer who oversees the competence of Authorising Officers and the processes in use in the authority. Both of these roles are allocated to the Legal Services Manager.

5.4 There has been no authorisations issued under RIPA since 2012.

5.5 The Investigatory Powers Commissioner's Office (IPCO) has taken over the inspection and oversight functions on RIPA, previously carried out by the Surveillance Commissioner's Office and the IPCO and his assistants have confirmed that they will continue to ensure RIPA compliance by conducting a programme of inspections of Local Authorities. As a generality, they aim to inspect each council in England, Wales and Scotland once every three years but have introduced remote desktop inspections when a local authority has significantly reduced or stopped using their powers under RIPA and when there are no apparent significant compliance concerns. However, a desktop inspection will always be followed by an onsite inspection.

- 5.6** The council's last inspection was carried out by a remote assessment in March 2019. According to the IPSO's website, the IPSO have continued to carry out their core functions throughout Covid-19 and are now into a routine of hybrid inspections. The council's next inspection is due in 2022.
- 5.7** Following the last desktop-based documentary inspection, the Inspector issued a report in April 2019, which concluded that the council's policy and guidance regime was clear and comprehensive and that regular refresher training carried out by the officers was appropriate. He drew the council's attention to the usefulness and accessibility of social media in assisting with the council's enforcement processes and the advice contained in the revised Home Office Covert Surveillance and Property Interference Code of Practice.
- 5.8** In light of the Inspector's report and following refresher training undertaken by officers where the use of social media was addressed, paragraph 11 of the Council's policy at Appendix A was updated, together with a few other minor changes. The amendments were approved by the Audit Committee on 19 November 2019. A new social media process was also added at Appendix 11 which outlines the process to be followed by officers when considering using social networking sites for enforcement purposes, in investigations or to gather evidence.
- 5.9** Following the Corporate Management Team restructure in December 2019, the Corporate Director Resources requires training on RIPA but this has been on hold owing to the Covid-19 pandemic. Training will be arranged for all relevant officers before the next inspection due in 2022.

Financial and legal implications	
Finance	There are no direct financial implications associated with the changes. Training for staff, to ensure that they are kept up to date with good enforcement practices and revisions to RIPA, will be met from existing budgets.
Legal	The approval of the recommendation will ensure that the statutory requirements have been complied with.

Other risks/implications: checklist

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report for those issues marked with an X.

risks/implications	✓ / x
community safety	x
equality and diversity	x

risks/implications	✓ / x
asset management	x
climate change	x

sustainability	x
health and safety	x

ICT	x
data protection	✓

Processing Personal Data

In addition to considering data protection along with the other risks/ implications, the report author will need to decide if a 'privacy impact assessment (PIA)' is also required. If the decision(s) recommended in this report will result in the collection and processing of personal data for the first time (i.e. purchase of a new system, a new working arrangement with a 3rd party) a PIA will need to have been completed and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018.

report author	telephone no.	email	date
Mary Grimshaw	01253 887214	Mary.grimshaw@wyre.gov.uk	20.10.2021

List of background papers:		
name of document	date	where available for inspection
None		

List of appendices

None