

Report of:	Meeting	Date
Mary Grimshaw, Legal Services Manager	Audit and Standards Committee	14 November 2023

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 September 2022.
- 1.2** To approve the RIPA policy.

2. Outcomes

- 2.1** Demonstrates that the Council's policies and procedures are compliant with RIPA 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 proposed changes to the Council's RIPA policy since it was last updated and approved by this Committee on 27 September 2022.

4. Background

- 4.1** Local authorities can undertake surveillance and access communications data under the framework of RIPA. These rules set high standards for all public authorities that use these powers to undertake a range of enforcement functions to ensure that they can keep the public safe and bring criminals to justice, whilst protecting individuals' rights to privacy.
- 4.2** The Protection of Freedoms Act 2012 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. The council has not used RIPA surveillance powers since 2012.

- 4.3** The council is required to have a RIPA policy. The current policy was last approved in September 2022 in compliance with the RIPA code of practice, which requires an annual review of the policy.
- 4.4** The Investigatory Powers Commissioner's Office (IPCO) has taken over the inspection and oversight functions on RIPA, which was previously carried out by the Surveillance Commissioner's Office. The IPCO 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. The council's previous inspection was in 2022.

5. Key Issues and proposals

- 5.1** An IPCO inspector carried out a remote desktop review on 13 January 2022. Following the inspection a report was issued. A summary of the recommendations made were summarised at the last review (27 September 2022) and can be found at the following link.

<https://wyre.moderngov.co.uk/ieListDocuments.aspx?CId=149&MId=1699&Ver=4>

- 5.2** Following a training session, which highlighted the possible use of social media in surveillance activities, departmental heads were approached to capture the extent and scope of online activity. A small number of managers confirmed that they may use social media for surveillance activities. These managers were informed that all activity should be recorded and supervised, which enables the Senior Responsible Officer to have confidence that such resources are being used in a controlled, auditable and well understood manner. A further reminder and examination of any records will be completed by Internal Audit later in the year.
- 5.3** Following the inspector's report, chapter 5 of the policy on communications data was updated and approved by this Committee to reflect the legislative changes made by the Investigatory Powers Act 2016. Local authorities can now obtain details of in and out call data and cell site location for "applicable crimes". All Communications Data

applications must now be processed through National Anti Fraud Network and will be considered for approval by the Independent Office of Communication Data Authorisation.

- 5.4** There are no changes proposed to the policy at this time, as it is considered to be compliant with RIPA.

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 recommendations demonstrates that the council's policies and procedures are compliant with RIPA.

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
sustainability	x
health and safety	x

risks/implications	✓ / x
asset management	x
climate change	x
ICT	x
data protection	x

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.

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

List of appendices

Appendix 1 - RIPA Policy Statement (no changes)