

Report to:	AUDIT COMMITTEE
Relevant Officer:	Mark Towers, Director of Governance and Partnerships
Date of Meeting	14 September 2017

REGULATION OF INVESTIGATORY POWERS ACT – UPDATED POLICY

1.0 Purpose of the report:

1.1 To consider a draft revised policy for the Council’s Regulation of Investigatory Powers Act (2000) policy.

2.0 Recommendation(s):

2.1 To approve the updated policy attached at Appendix 6(a)

3.0 Reasons for recommendation(s):

3.1 To bring the policy up to date to reflect good practice and changes in personnel.

3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.2b Is the recommendation in accordance with the Council’s approved budget? Yes

3.3 Other alternative options to be considered:

None.

4.0 Council Priority:

4.1 The relevant Council Priorities are

“The economy: Maximising growth and opportunity across Blackpool”

“Communities: Creating stronger communities and increasing resilience”

5.0 Background Information

- 5.1 The Regulation of Investigatory Powers Act 2000 regulates covert investigations by various bodies, including local authorities. It was introduced to ensure that individuals' rights are protected whilst ensuring that law enforcement and security agencies have the powers they need to do their job effectively. The Act provides a framework within which activities, which it covers, can be carried out in a manner consistent with the individuals Human Rights. It also provides statutory protection for the authority concerned if its provisions are adhered to.
- 5.2 The Council has an agreed policy in place and this was last agreed by the Audit Committee on 30 June 2016. The purpose of the policy is to:
- Explain the scope of the 2000 Act and where it applies
 - Provide guidance on the internal authorisation procedures to be followed
 - Provide guidance on applications for judicial approval
- 5.3 The 2000 Act requires that when the Council undertakes 'directed surveillance' or uses a 'covert human intelligence source' these activities must only be authorised by an officer with delegated powers when the relevant statutory criteria are satisfied.
- 5.4 Authorisation and judicial approval under the 2000 Act gives lawful authority to carry out surveillance and the use of a source. Obtaining authorisation and judicial approval protects the Council and its officers from complaints of interference with the rights protected by Article 8 (1) of the European Convention on Human Rights enshrined in English law through the Human Rights Act 1998.
- 5.5 Provided activities undertaken are also "reasonable and proportionate", they will not be in contravention of Human Rights legislation.
- 5.6 The Council has a Corporate RIPA Group which meets two or three times per year to keep an overview of the activities of surveillance across the Council. The Group is chaired by the Director of Governance and Partnerships and includes those responsible for governance, policy, authorisation and monitoring of covert surveillance activities across the Council.
- 5.7 On 16 August 2016, Mr Graham Wright undertook the three yearly inspection report regarding compliance with the statutory provisions which govern the use of covert surveillance. Mr Wright had also conducted the inspection in 2013.
- 5.8 The result of the inspection was positive with a number of recommendations around raising awareness to the non-traditional RIPA audiences (e.g. Social Care, HR, Council companies) and some recommendations for good practice which have been implemented and are part of the revised policy.

These include the following:

- inclusion of a section on the use of surveillance outside of RIPA (i.e. where in certain circumstances direct surveillance or the use of a Covert Human Intelligence Source may be reasonable and proportionate).
- inclusion of a section on the use of surveillance in social work cases,
- inclusion of a paragraph on how wholly owned Council companies are covered by RIPA; and
- inclusion of a paragraph on the consequences of not following RIPA.

5.9 In raising awareness the following actions have been undertaken:

- Briefings have been undertaken with all departmental management teams and a number of smaller groups in certain departments which have an interest in surveillance (e.g. HR, children's services/ social work).
- A briefing has been undertaken with the Boards of all Council owned companies and these briefings have been cascaded down to relevant groups within those companies.

Does the information submitted include any exempt information?

No

List of Appendices:

Appendix 6(a) – Revised draft Regulation of Investigatory Powers Act (2000) policy (the appendices to this policy are not included but are the predominantly the forms supporting the policy).

6.0 Legal considerations:

6.1 Non-adherence to the Policy could result the Council contravening the Human Rights Act and may prevent the successful prosecutions of those identified as committing criminal activities.

7.0 Human Resources considerations:

7.1 Staff involved in the process are offered the opportunity to attend training on the requirements of RIPA, further training is planned for November this year.

8.0 Equalities considerations:

8.1 None.

9.0 Financial considerations:

9.1 The RIPA process is already embedded into the Council's investigatory activities and therefore will not result in an additional cost.

10.0 Risk management considerations:

10.1 There is a risk that the Council is subject to legal action due to non-compliance with the RIPA legislation and Human Rights Act.

11.0 Ethical considerations:

11.1 All applications submitted are assessed to determine whether they are proportionate to the activity taking place and controls implemented to reduce the impact of collateral damage.

12.0 Internal/ External Consultation undertaken:

12.1 The Corporate RIPA Group includes representation from Risk Services, Democratic Governance, Legal Services, Human Resources, Public Protection, ICT, Community Safety, CCTV, and Street Cleaning.