

## **Audit Committee – 4 September 2017**

### **Regulation of Investigatory Powers Act (RIPA) 2000**

#### **Summary of report:**

This report is to:

- provide the Audit Committee with a summary of surveillance activities undertaken by the council under the Regulation of Investigatory Powers Act (RIPA) 2000 for the year ending 31 March 2016 and
- provide the Audit Committee with the opportunity to review the Corporate RIPA Policy and Procedures (**to follow**) to ensure it is current; provides the required guidance to officers and ensures the Authority is compliant with the legal framework.

#### **Background papers:**

Regulation of Investigatory Powers Act (RIPA) 2000 activity records.

#### **Recommendations:**

1. Note the Council's use of the Regulation of Investigatory Powers Act (RIPA) 2000 for the year ending 31 March 2016 and seek assurance from the Executive Director (Economy & Environment) as the Council's Senior Responsible Officer for RIPA, that usage is consistent with the Council's policy and procedures.
2. Review the amended Corporate RIPA Policy and Procedure to ensure it is current; it provides the required guidance to officers and ensures the Authority is compliant with the legal framework.

**Simon Neilson – Executive Director (Economy & Environment)**

**23 August 2017**

#### **Background**

Where there is an interference by a local authority with the right to respect for private and family life guaranteed under Article 8 of the European Convention on Human Rights and where there is no other source of lawful authority, the consequence of not obtaining an authorisation under the 2000 Act may be that the action is unlawful by virtue of section 6 of the Human Rights Act 1998.

The Home Office has strongly recommended that local authorities seek an authorisation where the surveillance is likely to interfere with a person's Article 8 rights to privacy by obtaining private information about that person, whether or not that person is the subject of the investigation or operation. Obtaining an authorisation ensures that the action is carried out in accordance with law and subject to stringent safeguards against abuse.

Directed surveillance authorisations under Part II of the Regulation of Investigatory Powers Act (RIPA) 2000 may be granted in relation to covert surveillance undertaken in relation to a specific investigation or operation which is likely to result in the obtaining of private information about a person, and which is other than an immediate response to events or circumstances.

## **Regulation of Investigatory Powers Act (RIPA) 2000 Annual Statistics 1 April 2016 - 31 March 2017**

The table at **Appendix 1** includes the general purpose or reason for which RIPA authority was granted and the number of authorities granted for each purpose or reason for the period. It is not possible to give further details as this may breach confidentiality legislation, interfere with the proper investigation of potential offenders or disclose other operational information which could hinder past, current or future activities, investigatory techniques or investigations.

Audit Committee are requested to seek assurance from the Executive Director (Economy & Environment) as the council's Senior Responsible Officer for RIPA that usage is consistent with the council's policy and procedures.

During the year three training sessions were delivered to staff. A half day update was delivered to managers and authorising officers. As a result of this an additional authorising officer has been appointed to provide resilience to the Authority. Two one day training sessions were delivered to officers who carry out investigations to ensure that they are aware of the requirements of RIPA, when they can use it and when their work may fall within the definition of surveillance so they do not inadvertently conduct surveillance which should be authorised but for which there is no such authorisation in place.

## **Reporting of Surveillance Activity to Audit Committee**

Audit Committee has in the past received regular, quarterly where possible, summaries of surveillance activities undertaken by the council under the Regulation of Investigatory Powers Act (RIPA) 2000, in accordance with recommended practice which states:

“.... elected members of a local authority should review the authority's use of the 2000 Act and set the policy at least once a year. They should also consider internal reports on use of the 2000 Act on at least a quarterly basis to ensure that it is being used consistently with the local authority's policy and that the policy remains fit for purpose. They should not, however, be involved in making decisions on specific authorisations”.

The revised procedure, appendix 2, will be sent **to follow**. It has been amended to include a flow chart summarising the RIPA application procedure and to insert the names of the Authorised Officers who can approve RIPA applications.

**Resource and legal considerations:**

Material obtained through covert surveillance may be used as evidence in criminal proceedings. The proper authorisation of surveillance should ensure the admissibility of such evidence under the common law, S78 of the Police and Criminal Evidence Act 1984 and the Human Rights Act 1998.

**Citizen impact:**

Audit Committee's receipt of information relating to RIPA surveillance and ability to seek assurance from the Senior Responsible Officer provides an assurance to stakeholders about the security of the council's operations.

**Performance and risk management issues:**

This report provides another layer of monitoring of the use of the Regulation of Investigatory Powers Act (RIPA) 2000 and therefore accountability of the officers is heightened.

**Equality Implications:**

None arising from this report.

**Consultation:**

Advice has been sought as necessary from the Council's legal services and internal audit section.

**Simon Neilson – Executive Director (Economy & Environment)****Author:**

Simon Neilson  
Executive Director, Economy & Environment

☎ 01922 652004

✉ [simon.neilson@walsall.gov.uk](mailto:simon.neilson@walsall.gov.uk)

**Regulation of Investigatory Powers Act (RIPA) 2000**  
**Annual comparators 1 April 2012 – 31 March 2017**

	1 April 2012 - 31 March 2013	1 April 2013 –31 March 2014	1 April 2014 –31 March 2015	1 April 2015 –31 March 2016	1 April 2016 –31 March 2017
Housing benefit and / or council tax benefit investigation	4	0	0	0	0
Anti social behaviour enforcement	9	0	0	0	0
Trading standards – age restricted test purchasing (knives, cigarettes, alcohol, fireworks), taxis plying for hire, counterfeit goods, fly tipping, litter enforcement	18	8	5	3	2
Miscellaneous – staff working privately while absent on sick leave; insurance claims from injured parties	0	0	0	0	0
<b>Total</b>	<b>31</b>	<b>8</b>	<b>5</b>	<b>3</b>	<b>2</b>

