

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Colin Johnson, Portfolio Holder for Governance and Customer

To: Cabinet 21 November 2017

(Author: Mark Stinson, Executive Manager - Governance)

Subject: Regulation of Investigatory Powers Act (RIPA) Policy Update

Purpose: To ensure that the Council's Policy and Procedures are updated in light of recommendations from the Office of the Surveillance Commissioner

Recommendation(s):

- 1) That the Executive Manager – Governance be instructed to update the RIPA Policy and Procedures to reflect the recommendations of the Office of the Surveillance Commissioner (OSC)
- 2) That the Executive Manager – Governance be instructed to report annually to members on the number of RIPA authorisations and on the fitness of the Policy and Procedures.
- 3) That, in between annual reports, any activity be reported to the Portfolio Holder for Governance and Customer.

1.0 BACKGROUND

- 1.1 This Council, along with all other district councils, has certain limited powers to conduct covert surveillance (which may be in various forms – such as directed CCTV or use of a covert human intelligence source).
- 1.2 The Office of the Surveillance Commissioner (OSC) conducts an inspection of our use of these powers, together with a review of our policies and procedures, every three years. Normally this is by way of a physical visit and interviews with key officers. Such inspections usually result in the need to update elements of our RIPA Policy and Procedures (which have been in place for many years).
- 1.3 An inspection was conducted in July 2017. The OSC has discretion to conduct a ‘desktop’ assessment and if satisfied with the information provided may choose not to conduct a physical inspection. The Executive Manager – Governance completed an electronic submission and supplied various types of documentary evidence. Several months prior to the inspection, a legal assessment of the robustness of the current policy and procedures was undertaken and a small number of necessary changes were identified.
- 1.4 The OSC was satisfied with our submission, and endorsed the work that had been undertaken to identify required policy and procedure changes. In addition to a number of routine updates (such as changes to post titles, changes to some terminology, etc.) the more significant changes that we had identified comprised:
 - inserting details as to the maximum duration of an authorisation for covert human intelligence and updating the process for making an application.
 - providing more guidance on who may be classed as a covert human intelligence source

- reflecting the now more limited grounds on which an authorisation may be granted.
- providing additional practical guidance on the role of individuals in the process, and the maintenance of records
- implementing a mechanism for reporting to members regularly on use of the powers and on the fitness of the existing policy.
- adding the need to have regard to guidance issued by the Surveillance Camera Commissioner.
- adding guidance on internet investigations and in particular the use of social networking sites.
- the need for more regular training for those who may seek or authorise covert surveillance.

1.5 The OSC made only one additional recommendation that had not been identified proactively (this related to who should attend court should a RIPA application be made).

2.0 **OPTIONS**

2.1 To approve the recommendations.

2.2 To leave the Policy and Procedures unchanged. In view of the fact that all of the proposed amendments have been approved or proposed by the OSC this option is not recommended.

3.0 **REASONS FOR RECOMMENDATION(S)**

3.1 To ensure that the Council's Policy and Procedures are fit for purpose and compliant with current legal requirements and guidance.

4.0 **EXPECTED BENEFITS**

4.1 On updating the Policy and Procedures in accordance with the OSC recommendations, the Council can be confident that any authorisations that may need to be granted in the future will be done so following a robust process which will minimise the potential for challenge.

5.0 **IMPLICATIONS**

In preparing this report, the report author has considered the likely implications of the decision - particularly in terms of Carbon Footprint / Environmental Issues; Constitutional & Legal; Contracts; Corporate Priorities; Crime & Disorder; Equality & Diversity/Human Rights; Financial; Health & Wellbeing; Reputation; Risk Management; Safeguarding; Staffing; Stakeholders/Consultation/Timescales; Transformation Programme; Other. Where the report author considers that there may be implications under one or more of these headings, these are identified below.

5.1 **Constitution & Legal**

5.1.1 Our statutory powers are set out in the Regulation of Investigatory Powers Act 2000 and associated legislation, regulations and guidance.

5.1.2 The RIPA policy does not form part of the Policy Framework and is therefore an executive function.

5.2 **Equality and Diversity / Human Rights**

5.2.1 Robust policies and procedures, that accord with legal requirements and guidance, help to ensure that any action taken under those policies and procedures are fair and are compliant with equality and diversity obligations as well as human rights.

5.3 **Safeguarding**

5.3.1 The Policy and Procedures cater for different circumstances, such as including much more restrictive requirements where a potential covert human surveillance source may be a juvenile.

6.0 **WARDS/COMMUNITIES AFFECTED**

6.1 The Policy and Procedures apply across the whole district.

7.0 **ACRONYMS**

7.1 OSC – Office of the Surveillance Commissioner.
RIPA - Regulation of Investigatory Power Act.

Background papers:- RIPA Policy and Procedures 2014
OSC Report – July 2017

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Key Decision: No

Exempt Decision: No

This report refers to a Mandatory Service