



REPORT TO:	Governance and Audit Committee
DATE:	9th November 2023
SUBJECT:	Regulation of Investigatory Powers Act (RIPA) 2000 – Update
PURPOSE:	To advise Members of any RIPA regulatory activity in the last 12 months and any work needed to ensure arrangements remain up to date and provide assurance that our legal obligations are effectively managed.
KEY DECISION:	<i>N/A</i>
PORTFOLIO HOLDER:	ClIr Astill, Portfolio Holder for Corporate Governance and Communication
REPORT OF:	Christian Allen Assistant Director Regulatory and Senior Responsible Officer (SRO) for RIPA
REPORT AUTHOR:	Christian Allen
WARD(S) AFFECTED:	All
EXEMPT REPORT?	<i>No</i>

SUMMARY

The purpose of this report is to provide Governance and Audit Committee with an update on the Council's activities in respect of the Regulation of Investigatory Powers Act (RIPA) 2000 during the last 12 months. The report also seeks to update members on anticipated changes necessary to our Policy and Procedures to reflect current guidance issued by the Home Office and the Investigatory Powers Commissioners Office (IPCO), the regulatory body that oversees compliance with RIPA by public bodies.

Recent correspondence with IPCO indicated the Council is due an audit by the Commissioner's Office this year. Subsequent discussion with IPCO around scheduling of the audit has determined postponement until next year instead when a combined audit involving all three Councils in the South and East Lincolnshire Councils Partnership will be undertaken. Preparations are underway to ensure our readiness for the audit and to seek opportunities to align our Policy, Procedures and Arrangements for RIPA so that we have a consistent, Partnership approach.

Members of the Audit and Governance Committee are asked to note the report and the preparations planned and underway for the Partnership audit by IPCO in 2024.

RECOMMENDATIONS

Members are invited to note the report and comment on the report as appropriate.

REASONS FOR RECOMMENDATIONS

To ensure awareness of the use of RIPA over the past year at the Council and advise on the work necessary and underway to maintain compliance and prepare for the Partnership IPCO Audit next year.

Ensuring Members are informed about RIPA activity, policy and procedures demonstrates good governance and an organisational commitment to the obligations imposed by RIPA on public bodies.

OTHER OPTIONS CONSIDERED

Retain independent, sovereign policy and procedures to meet the obligations imposed by RIPA on South Holland District Council.

This option has not been explored as economies of scale, efficiencies and shared learning can be optimised by harmonising our approach to RIPA across the Partnership. This sub regional approach also accords with the objectives set out in the Memorandum of Agreement and the Business Case for the South and East Lincolnshire Councils Partnership.

1. BACKGROUND

- 1.1** The Regulation of Investigatory Powers Act (RIPA) 2000 was enacted to regulate the powers of public bodies that carry out surveillance and investigation as part of their functions including the potential interception of communications.
- 1.2** The Council's RIPA policy, procedures and practices must seek to ensure that our arrangements comply with the requirements of the European Convention on Human Rights and the Human Rights Act 1998 when undertaking any investigative activities which may interfere with a person's right to respect for a private family life, home and correspondence.
- 1.3** The requirements of the European Convention on Human Rights, the Human Rights Act 1998 and RIPA potentially impact any Officers of the Council performing investigatory or enforcement activities. Officers undertaking covert investigative activities must only do so in accordance with the requirements set out in RIPA and associated guidance.

- 1.4** RIPA governs local authorities use of Directed Surveillance (surveillance of an individual/s without their knowledge for a specific purpose), use of a Covert Human Intelligence Source (use of informants or undercover officers) and access to communications data (obtaining subscriber information of a telephone number or internet user, etc) provided the investigatory activity is lawful, necessary, proportionate and non-discriminatory.
- 1.5** The Investigatory Powers Commissioner's Office (IPCO) is the regulatory body designated to oversee the compliance arrangements of public bodies in their use of RIPA and undertake audits of public authorities to evaluate their compliance with the legislation.

2. REPORT

- 2.1** South Holland District Council last underwent a full audit (in conjunction with Breckland District Council) with IPCO in 2017 and then a desktop audit undertaken in 2020. All the recommendations from the last audit were implemented.
- 2.2** The Council has not found it necessary to authorise any applications to the courts for use of Directed Surveillance, use of covert human intelligence sources (CHIS) or for access to communications data in the last 12 months.
- 2.3** The Assistant Director Regulatory was appointed to the role of Senior Responsible Officer for RIPA for South Holland District Council in September 2023. The SRO responsibilities for the AD Regulatory role align with those already in place at Boston Borough Council and East Lindsey District Council.
- 2.4** The RIPA Policy for South Holland District Council is dated April 2017 and requires review. This presents an opportunity to develop and adopt a single RIPA policy for the Partnership and to share responsibilities of named Officers with designated policy roles at Boston Borough Council and East Lindsey District Council with all partners.
- 2.5** Enforcement Officers in key roles and services across the Council such as community safety, environmental health and planning are required to undertake training on a regular basis to refresh their knowledge of RIPA policy, procedure and practice. Training records suggest RIPA training was last provided in 2018 and hence will be refreshed in 2024. This will be managed through the Partnership Training and Development Plan and presents opportunity to organise and commission training/re-training centrally so that relevant Officers have a consistent understanding and knowledge of RIPA across the Partnership.

3. CONCLUSION

- 3.1** There has been no audit undertaken by IPCO since 2017.
- 3.2** There has been no RIPA relevant activity undertaken by South Holland District Council in the last 12 months.

- 3.3 The current RIPA policy is in need of a refresh and this presents an opportunity to develop and adopt a single RIPA policy for the Partnership and to share responsibilities of named Officers with designated policy roles.
- 3.4 Enforcement Officers in key roles and with designated responsibilities will undertake refresher training commensurate with their obligations during 2024/25 and prior to the anticipated audit by IPCO.

4. EXPECTED BENEFITS TO THE PARTNERSHIP

- 4.1 By adopting a common approach to RIPA across all three councils, economies of scale, efficiencies and shared learning can be optimised across the Partnership. This sub regional approach also accords with the objectives set out in the Memorandum of Agreement and the Business Case for the South and East Lincolnshire Councils Partnership.

5. IMPLICATIONS

5.1 SOUTH AND EAST LINCOLNSHIRE COUNCILS PARTNERSHIP

- 5.1.1 Whilst the obligations of RIPA remain the responsibility of each sovereign council, Officers and Members will benefit from a consistent and recognised approach being adopted to meet these obligations across the Partnership.

5.2 CORPORATE PRIORITIES

- 5.2.1 None

5.3 STAFFING

- 5.3.1 Staff with designated roles under RIPA have agreed to support the extension of their responsibilities to South Holland District Council. Designated staff have been consulted and have indicated their agreement to this.

5.4 CONSTITUTIONAL AND LEGAL IMPLICATIONS

- 5.4.1 *Non* - compliance with the legislation associated with covert surveillance leaves the Council open to evidential challenge of enforcement activities in the courts and potentially formal claims for compensation from individuals or corporate bodies should it be found that RIPA policy, guidance and procedures have not been followed. The Policy and training ensures all officers considering surveillance and making an application to do so are aware of the requirements of the legislation.

5.5 DATA PROTECTION

- 5.5.1 The protection of data is implicit in our obligations and compliance with RIPA.

5.6 FINANCIAL

- 5.6.1 None

5.7 RISK MANAGEMENT

- 5.7.1 The Council may be exposed to legal, financial and reputational risk were it to undertake enforcement activity inconsistent with the obligations of RIPA. Hence it is important that

our policy, practices and procedures are regularly reviewed to ensure that they are up to date with IPCO and Home Office guidance.

5.8 STAKEHOLDER / CONSULTATION / TIMESCALES

5.8.1 Consultation has been undertaken with the relevant Portfolio Holder, Monitoring Officer, Group Manager for Information Governance and Data Protection Officer, Data Protection Officer for South Holland District Council and Section 151.

5.9 REPUTATION

5.9.1 Non-compliance with the legislation associated with covert surveillance leaves the Council open to reputational damage should a formal claim for compensation from individuals or corporate bodies find RIPA policy, guidance and procedures have not been followed.

5.10 CONTRACTS

5.10 None

5.11 CRIME AND DISORDER

5.11.1 Compliance with the obligations of RIPA must be intrinsic to all enforcement activities undertaken by the Council.

5.12 EQUALITY AND DIVERSITY/ HUMAN RIGHTS/ SAFEGUARDING

5.12.1 Adopting an approach to RIPA that is consistent with IPCO and Home Office guidance will help to ensure that the Council is meeting its equality and diversity, human rights and safeguarding obligations.

5.13 HEALTH AND WELL BEING

5.13.1 None.

5.14 CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

5.14.1 None.

5.15 LINKS TO 12 MISSIONS IN THE LEVELLING UP WHITE PAPER

5.15.1 None

6. ACRONYMS

6.1 RIPA – Regulation of Investigatory Powers Act 2000

IPCO – Investigatory Powers Commissioners Office

APPENDICES

None

BACKGROUND PAPERS

No background papers as defined in Section 100D of the Local Government Act 1972 were used in the production of this report.

CHRONOLOGICAL HISTORY OF THIS REPORT

A report on this item has not been previously considered by a Council body.

REPORT APPROVAL

Report author:	Christian Allen - Assistant Director Regulatory and Senior Responsible Officer (SRO) for RIPA
Signed off by:	John Leach Deputy Chief Executive - Communities
Approved for publication:	Councillor Astill - Portfolio Holder for Corporate Governance and Communication

CHECKLIST - DELETE BEFORE SUBMISSION TO DEMOCRATIC SERVICES

S151 Officer consulted on financial implications:	Yes
Monitoring Officer consulted on legal and constitutional implications:	Yes
Portfolio Holder consulted:	Yes
Ward Member consulted:	N/A