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| REPORT TO: | Policy Development Panel |
| DATE: | 6 th February 2024 |
| SUBJECT: | Regulation of Investigatory Powers Act 2000 – Partnership Policy |
| PURPOSE: | To consult Members on the development of a Regulation of Investigatory Powers Act 2000 – Partnership Policy; for the South and East Lincolnshire Councils Partnership |
| KEY DECISION: | <i>N/A</i> |
| PORTFOLIO HOLDER: | CLlr 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; Assistant Director Regulatory |
| WARD(S) AFFECTED: | All |
| EXEMPT REPORT? | <i>No</i> |

SUMMARY

The purpose of this report is to seek views of Policy Development Panel members on a Regulation of Investigatory Powers Act (RIPA) 2000 - Partnership Policy. The Policy brings together the previous South Holland District Council RIPA Policy with the Joint RIPA Policy at East Lindsey District Council and Boston Borough Council; to create a single RIPA Policy for the Partnership.

The new Partnership Policy seeks to align and harmonise current practice and procedures across the three Councils and to bring RIPA related arrangements up to date with 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.

This report asks members to consider the Regulation of Investigatory Powers Act (RIPA) 2000 - Partnership Policy and recommend it to Cabinet for approval later this month.

RECOMMENDATIONS

That Policy Development Panel considers the Regulation of Investigatory Powers Act (RIPA) 2000 - Partnership Policy and recommends it to Cabinet for approval.

REASONS FOR RECOMMENDATIONS

To ensure that Members are aware of the duties imposed on the Council by the Regulation of Investigatory Powers Act 2000 and the requirement to adopt a Policy that is up to date, relevant and fit for purpose.

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 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 Correspondence received from IPCO during 2023 indicated that South Holland District Council was due an inspection of their RIPA compliance during 2023. In subsequent discussions with IPCO and having explained the operational impact of the South and East Lincolnshire Councils Partnership on the conduct of our enforcement arrangements, it was agreed that the inspection of South Holland could be deferred to bring planned inspection dates for Boston and East Lindsey into line. Hence the IPCO inspection could be undertaken as one inspection of RIPA arrangements at all three Council's in the Partnership.
- 1.2 The inspection deferral has also enabled the Partnership to commence the journey to harmonisation of current practice, arrangements and procedures as regards RIPA across the three Councils, an approach which was endorsed by Governance and Audit Committee on 9th November 2023.

2. REPORT

- 2.1 Development of the Partnership RIPA Policy commenced late last year with expertise provided by BLS Stay Compliant Ltd. Engaging a national company to undertake the work in collaboration with the SRO has ensured that the policy meets the national guidelines and codes of practice, provided by IPCO and the Home Office, as well best practice nationally.

- 2.2 The output of this work is attached at Appendix A and members of the Panel are invited to provide feedback on the policy before it progresses to Cabinet for approval and adoption at South Holland later this month.
- 2.3 Ahead of the planned inspection for the Partnership, IPCO require a self-assessment to be completed. This was completed and returned to IPCO on 21st December 2023. The self-assessment provided a summary of our current status in terms of; remedial actions completed following the previous inspection (2020), RIPA policy status and last review, training of staff, security or records, designation of officers, assurance around access to social media and communications data, managing CCTV systems and adherence to codes of practice. We also reported no RIPA powers used since the previous inspection in 2020.
- 2.4 IPCO replied to our self-assessment report on 9th January 2024 stating; “I note that you are in the final stages of amalgamating into one policy and procedure, and that have recognised training and knowledge requirements within South Holland District Council in particular, which you have planned to address”.
- 2.5 The IPCO reply goes onto state that “I am satisfied that your reply to the other matters identified provides your assurance that ongoing compliance with RIPA 2000 and the Investigatory Powers Act 2016 will be maintained. As such, your Council will not require further inspection this year”.
- 2.6 A copy of the letter from IPCO is attached at appendix B for Members information. It is evident from the reply that IPCO are satisfied with our approach as a Partnership subject to; amalgamation of policy, training of officers, and ongoing monitoring and oversight which the Commissioner has helpfully set out.

3. CONCLUSION

- 3.1 The correspondence from IPCO indicates that the Regulator is satisfied with the pace and direction of travel in terms of aligning RIPA policy, procedures and practice across the Partnership.
- 3.2 Development of a RIPA Partnership Policy is part of the commitment to IPCO to achieve ongoing compliance and this report presents the policy to members for consideration and recommend it to Cabinet for approval.

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 to its 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 and/or the Council has breached the Human Rights Act.

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

SRO – Senior Responsible Officer (designated under RIPA)

The Partnership – South and East Lincolnshire Councils Partnership

APPENDICES

Appendices are listed below and attached to the back of the report: -

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| Appendix A | Regulation of Investigatory Powers Act (RIPA) 2000 - Partnership Policy |
| Appendix B | IPCO letter of reply to the self-assessment report submitted by the SRO on behalf of the Partnership (9 th January 20224) |

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 |