

DECISION ITEM

| REPORT OF | MEETING | DATE | ITEM NO |
|---|---------|--------------|---------|
| RESOURCES DIRECTORATE | COUNCIL | 17 JULY 2017 | 22 |
| REGULATION OF INVESTIGATORY POWERS ACT (RIPA) POLICY | | | |

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

Under the Regulation of Investigatory Powers Act 2000, the council must have in place a system of authorising, recording and reviewing any surveillance that it carries out that is covered by the act. Its system must comply with the act, regulations and codes of practice. It must have its own RIPA policy.

A recent inspection by the Office of the Surveillance Commissioners has indicated a small number of areas where the policy could usefully be updated. This report sets out amendments to the policy to satisfy those recommendations and invites the council to approve the policy with those amendments.

RECOMMENDATION

Council is recommend to endorse the RIPA policy as updated.

SUMMARY OF PREVIOUS DECISIONS

The council is invited annually to note the use made by the council of surveillance powers and adopt or endorse the council's RIPA policy. The council last did so at its meeting on 6 February 2017.

The Audit and Standards Committee receives quarterly reports on the council's use of surveillance powers.

CORPORATE PRIORITIES

| | |
|--|---|
| Spending your money in the most efficient way to achieve excellent services (Value for Money) | √ |
| Delivering the services that customers expect of an excellent council (Clean and Green) | |
| Working with all partners (Vibrant Economy) | |
| To make sure Fylde continues to be one of the most desirable places to live (A Great Place to Live) | |
| Promoting Fylde as a great destination to visit (A Great Place to Visit) | |

REPORT

THE RIPA FRAMEWORK

1. The Regulation of Investigatory Powers Act 2000 (RIPA) regulates covert investigations by a number of bodies, including local authorities. It was introduced to ensure that individuals' rights are protected while also ensuring that law enforcement and security agencies have the powers they need to do their job effectively.
2. Fylde Council is therefore included within RIPA framework with regard to the authorisation of both directed surveillance and of the use of covert human intelligence sources.

3. Directed surveillance includes the covert surveillance of an individual in circumstances where private information about that individual may be obtained. A covert human intelligence source (“CHIS”) is a person who, pretending to be someone that they are not, builds up a relationship of trust with another person for the purpose of obtaining information as part of an investigation.
4. RIPA introduced a mandatory system of authorisation and review for surveillance activities. Only certain people can be designated to authorise surveillance. Authorisations must be approved by the Magistrates’ Court. There must be a centrally-retrievable record of authorisations.
5. As well as the act, the RIPA framework includes statutory instruments and codes of practice issued by the Home Office. Each public authority that can use RIPA must have its own RIPA policy. The Office of the Surveillance Commissioners can inspect any public authority’s RIPA compliance. The Commissioners’ inspections can be rigorous and thoroughgoing.

CONSIDERATION OF RIPA POLICY

6. The council has recently had a scheduled inspection. Because Fylde is a very infrequent user of directed surveillance or CHIS, the inspection was a desktop one, with no inspector visiting the site.
7. Though the inspector found the council’s RIPA policy to be ‘*a sound and useful document*’, he did make suggestions for improvement. These included updating appendix 4 (which deals with the use of social networking sites for directed surveillance) to reflect the latest OSC guidance, and making some specific references in the guidance to some operational matters that had been previously highlighted.
8. The guidance has been updated to reflect those recommendations, and is attached, with the additional material highlighted for reference.

| IMPLICATIONS | |
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| Finance | No implications |
| Legal | Authorisation of surveillance activity gives that surveillance “lawful authority” for the purposes of the European Convention on Human Rights. |
| Community Safety | CCTV cameras have the capability of being used for purposes falling within the ambit of RIPA. If they were so used, a RIPA authorisation would need to be obtained. |
| Human Rights and Equalities | See the comments under “Legal” |
| Sustainability and Environmental Impact | No implications |
| Health & Safety and Risk Management | Failure to comply with the statutory requirements would lead to an adverse report by the Surveillance Commissioners. |

| LEAD AUTHOR | CONTACT DETAILS | DATE |
|-------------|-----------------|--------------|
| Ian Curtis | 01253 658506 | 28 June 2107 |

| BACKGROUND PAPERS | | |
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| Name of document | Date | Where available for inspection |
| Employee’s Guide: Regulation of investigatory Powers Act 2000, 2015 revision | January 2015 | www.fylde.gov.uk |
| Report of OSC Inspection | 24 May 2017 | Town Hall, Lytham St Annes |

Attached documents

Appendix 1 – 2017 Draft update of RIPA Employees’ Guide Policy