

# CABINET

Agenda Item: 09

**Ward:** All

**Portfolio:** Finance Governance and Corporate Services

John Parham

**Report Author(s):**

**Meeting Date:**  
5 December 2016

**SUBJECT: Regulation of Investigatory Powers Act (RIPA) Update**

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Report Sign off	Seen by:	Name	Date
	Chief Executive/ Deputy Chief Executive(s)	Donna Nolan	22/11/16
	Legal	Lesley Dolan	22/11/16
	Finance	Duncan Moss	23/11/16
	Group Manager	David Clark	22/11/16
	Portfolio Holder	John Parham	23/11/16
	Ward Member(s)	N/A	
<b>Summary:</b>	The purpose of this report is to update Members on the Council's Corporate Policies and Procedures on RIPA following the last audit by the Surveillance Commissioners in November 2015.		
<b>Recommendation:</b>	Cabinet is asked to NOTE this report.		
<b>Direct and/or indirect impact on service delivery to our customers and communities:</b>	The audit report and the adoption of its subsequent recommendations provides assurance to the Council and the public that the proper controls are in place to ensure that any covert surveillance carried out during the course of investigations is undertaken properly and that the surveillance is necessary and proportionate to the alleged offence(s).		
<b>Contribution to Corporate Priorities:</b>	Whilst the Council may not have a direct contribution to health and care services, it plays a key support role in creating an environment that its community can flourish in. The Council also has a role in influencing and enabling other partners and members of our community to achieve outcomes that improve the health and wellbeing of our residents. Compliance with RIPA ensures that those who commit offences within the community can be brought to Court and dealt with accordingly.		
<b>Legal Implications:</b>	Failure to comply with RIPA could result in the exclusion of evidence from Court needed to secure a conviction for a criminal offence. In addition failure to comply presents a risk of a claim for		

	compensation to be made against the Council for alleged breaches of privacy.
<b>Financial Implications:</b>	The costs associated with RIPA are generally met within existing budgets.
<b>Impact on Service Plans:</b>	Please see legal implications above.
<b>Value for Money:</b>	Compliance with RIPA ensures that enforcement action and any subsequent prosecution proceedings are robust and the risk of any subsequent challenge under the Human Rights Act 1998 is mitigated.
<b>Equalities Implications:</b>	The proper and consistent application of RIPA ensures that a person's human rights are not interfered with without justification. The Council's policy and reporting measures ensure that the use of RIPA (which may interfere with a qualified right under the Human Rights Act 1998) is lawful, proportionate and consistent.
<b>Risk Assessment and Adverse Impact on Corporate Actions:</b>	See legal implications above.
<b>Scrutiny Recommendation (if any)</b>	

## INTRODUCTION/ BACKGROUND

1. RIPA, which came into force on 25 September 2000, was enacted in order to regulate the use of a range of investigative powers by a variety of public authorities. It gives a statutory framework for the authorisation and conduct of certain types of covert surveillance. Its aim is to provide a balance between preserving people's right to privacy and enabling enforcement agencies to gather evidence for effective enforcement action.
2. It is consistent with the Human Rights Act 1998 and creates a system of safeguards, reflecting the requirements of Article 8 of the European Convention on Human Rights (right to respect for a person's private and family life, home and correspondence).
3. Compliance with RIPA means that any conduct authorised under it is "lawful for all purposes". The protection derives from section 27(1) of RIPA, which gives the authorised person an entitlement to engage in the conduct which has been authorised. Compliance with RIPA will assist the Council in any challenges to the way in which evidence has been gathered and will enable the Council to demonstrate that it has acted lawfully.
4. Non-compliance may result in evidence being disallowed by the courts; a complaint of maladministration to the Ombudsman; or the Council being ordered to pay compensation. It is essential, therefore, that the Council's policies and procedures are followed.

## CURRENT POSITION

5. The Council is subject to audit inspections, every three years by an Assistant Surveillance Commissioner. The last audit inspection took place on 5 November 2015 and the Inspector's report and recommendations has been subsequently received.
6. The Inspector made five recommendations:
  - (i) Amend the Central record to include columns for self-authorisation and review;
  - (ii) Address by future training the issues remaining from the last inspection, those identified in the examination of documents and those pertinent to the training of *CHIS* (Covert Human Intelligence Source) managers;
  - (iii) Raise *RIPA* awareness throughout the Council;
  - (iv) Amend the "Corporate Policies and Procedures on *RIPA*";
  - (v) Ensure Elected Members receive annual and regular *RIPA* reports
7. Recommendations (i), (iii) (iv) have been actioned and are now completed. Recommendation (v) is covered by this Report and recommendation (ii) will now be actioned following completion of the management restructure.

8. Where investigating officers are intending to carry out covert surveillance they are required to obtain a unique reference number (URN) for the subsequent RIPA application/authorisation from the RIPA Co-Ordinating Officer who maintains the Central Record of authorisations. This number is subsequently endorsed on all RIPA paperwork for the particular matter. Apart from the issue of one URN in respect of which the application for authorisation of covert surveillance is still awaited, there has been no RIPA activity since the last Inspection by the Surveillance Commissioners.

## **RECOMMENDATIONS**

Cabinet is asked to NOTE this report.

## **REASONS FOR RECOMMENDATIONS**

This report complies with the recommendations from the last audit by the Surveillance Commissioners in November 2015.

Contact Officer: Lesley Dolan  
Extension: 693  
e-mail:Lesley.dolan@mendip.gov.uk

**List of background Papers:** None