

Report to: **Lead Cabinet Member for Communities and Safety**

Date: **1 September 2017**

By: **Assistant Chief Executive**

Title of report: **Regulation of Investigatory Powers Act ('RIPA') update**

Purpose of report: **To review the County Council's use of powers under RIPA and to set the County Council's RIPA policy for 2017/18**

RECOMMENDATION: The Lead Member is recommended:

- (a) To note the County Council's use of RIPA authorisations**
 - (b) To note the additional RIPA authorised officers and Designated Person; and**
 - (c) To approve the amendments to the County Council's RIPA Policy as set out in Appendix 1**
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1. Update: Authorisations made by the County Council

1.1 The County Council's use of RIPA authorisations is typically low. The number of authorisations made by the County Council over the last three years is:

2014/2015

2 (covert surveillance)

- To install a covert digital still camera to record persons visiting an address where the investigation was concerned with the suspected repeated financial abuse of the householder by tradesmen offering to undertake gardening and household work in excess of a reasonable charge and failing to provide a notice of cancellation rights.
- To carry out direct surveillance of retail premises, vehicles and persons, using equipment such as binoculars and recording equipment to capture evidence, where the investigation was concerned with the sale of illegal tobacco.

1 (communications)

- Investigation concerned with the financial abuse of a householder by tradesmen carrying out building work. Email and phone subscriber and account data required to identify the tradesmen.

2015/2016

1 (covert surveillance)

- To carry out direct surveillance of an individual where the investigation was concerned with whether that individual had obtained a disabled blue badge by supplying false information regarding their mobility.

2016/2017

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2. Changes to Authorised and Designated Officers

2.1 The Council's current policy on the use of the surveillance and acquisition of communications data within the regulatory framework of RIPA has been updated to reflect staffing changes in that a number of persons who had the role of Authorising Officer (surveillance) and/or Designated Person (communications data) for the purpose of that Act have now left the Authority.

2.2 Current Authorising Officers are:

- Liz Rugg, Assistant Director of Children and Families
- Mark Stainton, Assistant Director Adult Social Care, Operations
- Lucy Corrie, Head of Communities

The Assistant Chief Executive, as the Council's Senior Responsible Officer, has identified the following additional individuals to be added to the list of Authorising Officers:

- Richard Strawson, Team Manager Trading Standards
- Matthew Knowles, Enforcement & Investigations Manager Trading Standards

2.3 The existing Designated Person in respect of authorisations for obtaining communications data is Lucy Corrie, Head of Communities. The Council's Senior Responsible Officer has identified Richard Strawson and Matthew Knowles to be added as additional Designated Persons.

2.4 Training has been given to all current and additional Authorising Officers and Designated Persons, with the exception of Richard Strawson who was unable to attend but is booked on a training course in November 2017.

3 Proposed changes to the Policy due to legislation

3.1 The current Policy requires updating in order to allow authorisations for direct surveillance to be given in respect of investigations into the sale of nicotine inhaling products to children under 18 years old or proxy purchasing of tobacco, including nicotine inhaling products, to children under 18 years old. To ensure compliance it is recommended that the Policy is amended at Section 12.2 c and at Annex 4 Paragraph 6.

3.2 Annex 4 Paragraph 6 already refers to the existing threshold for directed surveillance as being that the offence being prevented or detected must carry a maximum term of at least six months imprisonment or it must constitute an offence under sections 146, 147 or 147A of Licensing Act 2003 (sale of alcohol to children) or section 7 of the Children and Young Persons Act 1933 (sale of tobacco to children under 18 years old) but this is now

further stated in the main body of the Policy at Section 12.2 b.

4 Internet and social media investigations

4.1 On-line communication has grown and developed significantly over recent years. The use of this type of communication in the commission of crime is a recognised aspect of routine investigations. The requirement remains, however, that any surveillance activity can only be undertaken in accordance with RIPA. Use of details about individuals, groups or locations that are provided on social networking sites and a myriad of other means of open communication between people using the Internet and their mobile communication devices may require authorisation. Particularly where viewing of open source sites is repetitive and is for the purpose of intelligence gathering and data collation.

4.2 It is recommended that a new paragraph: 'Internet and Social Media Investigations' is inserted into the Policy at Section 3 to keep pace with these developments.

5 Retention of records and duration of authorisations

5.1 Although records are only required to be retained for at least three years, The Covert Surveillance and Property Interference: Code of Practice and the Covert Human Intelligence Sources: Code of Practice Order 2014 state that it is desirable to retain records for up to five years. It is therefore recommended that the Policy is amended at Section 5.1 to provide that records are to be retained for at least five years.

6 General proposed changes to the policy

6.1 The remainder of the amendments shown as track changes in the Policy at Appendix 1 have been made to improve the quality of the content.

7 Conclusion and reason for recommendation

7.1 It is proposed that the Lead Member notes the use of RIPA and approves the changes to the RIPA Policy.

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Local Member: All

Background Documents: None