
REGULATION OF INVESTIGATORY POWERS

**Responsible Cabinet Member - Councillor Stephen Harker
Efficiency and Resources Portfolio**

Responsible Director - Paul Wildsmith, Director of Resources

SUMMARY REPORT

Purpose of the Report

1. The purpose of this report is to inform and update Members about issues relevant to the use of the Regulation of Investigatory Powers Act 2000 and developments that have taken place since the last report to Cabinet in June 2013.

Summary

2. The Regulation of Investigatory Powers Act 2000 (RIPA) enables local authorities to carry out certain types of surveillance activity, as long as specified procedures are followed. The information obtained as a result of surveillance operations can be relied upon in court proceedings providing RIPA is complied with.
3. The Office of the Surveillance Commissioner (OSC) provides regulatory oversight of the way in which public authorities use RIPA. The OSC carries out periodic inspections of local authorities, police forces and other bodies that use RIPA. The Council was inspected by the OSC on 31 October 2013. The inspection went well and the Council received positive feedback on the way that RIPA is used. Some observations and recommendations were also given. Further details are set out in this report
4. As a result of the Inspection, the RIPA Policy and the CCTV Code of Practice have both been reviewed and where necessary amended or updated. Further details are set out in the report. Copies of these documents are attached at **Appendix 1** and **Appendix 2**.
5. This report also gives details of RIPA directed surveillance applications that have been authorised and updates the tabulated information as appropriate.

Recommendation

6. It is recommended that Members :-

- (a) Note the developments that have taken place since June 2013
- (b) Approve the RIPA Policy
- (c) Approve the CCTV Code of Practice
- (d) Receive further reports on the use of RIPA and associated issues.

Reasons

7. The recommendations are supported by the following reasons :-

- (a) To ensure the appropriate use of powers contained in the relevant legislation.
- (b) The RIPA Policy and the CCTV Code of Practice need to be reviewed and updated when necessary.

Paul Wildsmith
Director of Resources

Background Papers

No background papers were used in the preparation of this report.

Luke Swinhoe : Extension 2055

S17 Crime and Disorder	The appropriate use of and oversight of RIPA powers will enable the Council to provide evidence to support appropriate prosecutions and tackle crime.
Health and Well Being	There are no specific implications for Health and Well Being
Carbon Impact	There are no issues which this report needs to address
Diversity	The policy treats all groups equally.
Wards Affected	All wards
Groups Affected	All groups equally
Budget and Policy Framework	This does not represent a change to the Council's budget and policy framework.
Key Decision	This is not a key decision
Urgent Decision	This is not an urgent decision
One Darlington: Perfectly Placed	The appropriate use of powers is a legislative requirement.
Efficiency	Clear policies for staff on RIPA and CCTV will help in the efficient use of the powers.

MAIN REPORT

Information and Analysis

The Office of Surveillance Commissioners Inspection

8. On the 31 October 2013 an Inspector appointed by the Chief Surveillance Commissioner carried out an inspection of the way that the Council uses RIPA. The Inspector met with members of the Corporate Officers Executive (including the Senior Responsible Officer), the Head of Legal Services, all Authorising Officers and the relevant teams that use or might consider using RIPA.
9. The Council has received some good feedback and also a number of recommendations.
10. The Inspector was satisfied that the central register complied with the statutory code of practice. In his view the RIPA applications were full, well articulated, with all of the statutory requirements addressed. The Inspector was pleased to note that the RIPA Policy had been updated to take account of the requirement introduced in 2012 to apply for approval from a magistrate. The inspector was complimentary about RIPA training that had been provided since March 2010 and felt that officers had a good understanding of directed surveillance but could be helped by more training on covert human intelligence sources (CHIS).

RIPA Policy

11. The Policy has been altered to reflect the OSC Inspection recommendations, in addition it has also been updated and refreshed as needed. A copy of the RIPA Policy is attached as **Appendix 1**. The main changes are as follows:
 - (a) The number of authorising Officers has been reduced from eight to five.
 - (b) Additional clarification has been given about the use of covert human intelligence sources (CHIS).
 - (c) The authorising officer for CHIS approval has been changed to allow CHIS to be authorised by any of the RIPA authorising officers (and not the SRO). However only the Chief Executive will be able to authorise a juvenile or vulnerable person to be a CHIS
 - (d) Greater information about how the unique reference number is obtained and the need for the original signature application form to be forwarded and retained by Legal Services
 - (e) The policy now includes specific provision on the use of social networking sites
 - (f) More specific provision is also given to the issue of surveillance to which RIPA does not apply and the considerations that will govern this area.

CCTV Code of Practice

12. The CCTV Code of Practice has been altered to reflect the OSC Inspection recommendations, in addition it has also been updated and refreshed as needed. A copy of the Code of Practice is attached as **Appendix 2**. The main changes to the Code are as follows:
- (a) Amendment to specifically state that control room staff should see a police (or other external agency) RIPA authorisation.
 - (b) Amendment to incorporate details of the Protection of Freedoms Act 2012 and guidance made under that legislation on the use of CCTV
 - (c) On line link to the RIPA Policy provided
 - (d) Contact information about the control room added

Training

13. A number of training sessions were held during the summer and included all authorising officers, staff in areas that use or may need to consider using RIPA, Members of the Corporate Executive including the Senior Responsible Officer. The training was delivered by the Head of Legal Services.
14. Following the inspection and the adoption of the revised RIPA policy it is proposed that additional training will be undertaken for officers. This will be to pick up issues highlighted in the inspection, such as the use of CHIS and the circumstances when a CHIS authorisation might be required, the training will also be aimed at a wider range of staff groups

Quarterly Report -Directed Surveillance

15. In 2013 RIPA was used twice. On both occasions it related to the deployment of motion detection cameras in remote locations to seek to capture evidence of fly tipping. One of these was in Lime Lane layby Brafferton and the other in Patches Lane. Unfortunately no evidence that could be used in a prosecution was obtained from these deployments.
16. The table below provides details of RIPA authorisations that have been made by this Council in the calendar years since 2007.

Type of investigation	2007	2008	2009	2010	2011	2012	2013	Total
Statutory noise nuisance	17	21	12	0	0	0	0	50
Trading standards	2	1	1	0	0	0	0	4
Underage sales	20	4	2	4	0	0	0	30
Illegal storage/sale of fireworks	0	1	0	0	0	0	0	1
Trespassing	1	0	0	0	0	0	0	1
Anti-social behaviour	6	14	6	0	0	0	0	26
Benefits investigation	1	0	0	0	0	0	0	1
Theft	2	0	0	0	0	0	0	2
Failure to educate	1	0	0	0	0	0	0	1
Criminal damage	0	0	2	4	0	0	0	6
Illegal waste disposal	0	0	0	1	0	1	2	4
Duplicate Car Park Passes	0	0	1	0	0	0	0	1
Totals	50	41	24	9	0	1	2	127

17. Members will recognise that there has been a reduction in the usage of RIPA by this Council, year on year and quite significantly since 2010. There are a number of factors that could explain this :

- (a) One of the issues highlighted by the Inspection in April 2010 was the difference of practice in the use of RIPA when noise recording equipment was being installed.
- (b) The national context has some relevance and Members will be aware of media criticism in the past of local authorities' use of RIPA.
- (c) The Protection of Freedoms Act imposes limitations to the use of RIPA by local authorities.
- (d) There have been a reduction in staffing levels and some staff have been carrying out investigations without seeking to deploy surveillance methods

Legal Implications

18. There are no specific legal implications other than those raised in the report.

Outcome of Consultation

19. There has been no consultation on the contents of this report.