
REGULATION OF INVESTIGATORY POWERS

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

**Responsible Director -
Paul Wildsmith, Director of Neighbourhood Services and 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 September 2015.

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. Following the departure of the Licensing, Parking and Trading Standards Manager it is proposed to reduce the number of Designated Authorising Officers for RIPA applications to four officers. As the Head of Housing will also be departing the Authority later this year, it is also proposed that she should be removed from the list of Designated Authorising Officers and replaced by the Assistant Director, Housing and Building Services.
4. As a result of the aforementioned staffing changes, other changes in job titles, amendments to the guidance produced by the Home Office and updates to the way government information is accessed online, the RIPA Policy has been reviewed and where necessary amended or updated. A copy of this document is attached at **Appendix 1**.
5. This report also gives details of RIPA directed surveillance applications and communications data applications that have been authorised since the last report to Cabinet.

Recommendation

6. It is recommended that Members:-
- (a) Note the developments that have taken place since September 2015
 - (b) Approve the appointment of the Assistant Director, Housing and Building Services as Designated Authorising Officer for RIPA directed surveillance applications
 - (c) Approve the RIPA Policy
 - (d) Receive further reports on the use of RIPA and associated issues

Reasons

7. The recommendations are supported by the following reasons :-
- (a) In order to ensure that the Council complies with the legal obligations under RIPA and that its procedures are in accordance with national guidance.
 - (b) To help in giving transparency about the use of RIPA in this Council.
 - (c) The RIPA Policy needs to be updated and reviewed when necessary.

Paul Wildsmith
Director of Neighbourhood Services and Resources

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Background Papers

Home Office Codes of Practice:-
Covert Surveillance and Property Interference, December 2014
Covert Human Intelligence Sources, December 2014
Interception of Communications, January 2016
Equipment Interference, January 2016

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	Clarity about the lawful use of RIPA will help in the efficient use of the powers.

MAIN REPORT

Information and Analysis

Roles and responsibilities

8. The current version of the RIPA Policy (approved by Cabinet on 7 January 2014) lists five Designated Authorising Officers for RIPA applications. These five officers are the Assistant Director Community Services, Assistant Director Regulatory Services, Head of Housing, Head of Legal Services and the Licensing, Parking and Trading Standards Manager.
9. Since the RIPA Policy was last updated there have been a number of departures of staff, changes in job roles and pending departures. Due to the recent departure of the Licensing, Parking and Trading Standards Manager, it is proposed to reduce the number of Designated Authorising Officers to four officers. As the Head of Housing will also be departing the Authority later this year, it is proposed that she should be removed from the list of Designated Authorising Officers and replaced by the Assistant Director, Housing and Building Services.
10. Furthermore, the Policy makes a large number of references to the Head of Legal Services. Following a restructure, this is a role that no longer exists and this work is now encompassed in the role of Assistant Director, Law and Governance. All references in the RIPA Policy to the Head of Legal Services have therefore been amended to reflect this change.

RIPA Policy

11. The Policy has been altered to reflect the aforementioned changes. Additionally, the Policy contained numerous references to the Codes of Practice that were published by the Home Office in 2010. These references have been updated to reflect the current Codes of Practice that were published in 2014. The Policy also contained various links to the Home Office website. Government information has now been consolidated on the www.gov.uk website and these links have therefore also been updated. A copy of the amended Policy is attached as Appendix 1.

Revised Codes of Practice

12. In January 2016 the Home Office published new Codes of Practice in relation to the Interception of Communications and Equipment Interference, however local authorities are not permitted to apply for an interception warrant nor are they authorised to interfere with equipment. Neither of these Codes of Practice therefore has direct application to our functions. They are primarily aimed at guiding both the Intelligence Services and Police.

Investigatory Powers Bill

13. The Investigatory Powers Bill has been given a formal First and Second Reading to reintroduce it into the 2016-17 session of Parliament. The Bill will be restarted at the point it reached in the last session.
14. The Bill makes provision about:
 - (a) the interception of communications, equipment interference and the acquisition and retention of communications data, bulk personal datasets and other information;
 - (b) the treatment of material held as a result of such interception, equipment interference or acquisition or retention;
 - (c) the establishment of the Investigatory Powers Commissioner and other Judicial Commissioners and provision about them and other oversight arrangements;
 - (d) further provision about investigatory powers and national security; and
 - (e) amending sections 3 and 5 of the Intelligence Services Act 1994

Training

15. A number of training sessions are being held during June and July for staff in service areas that use or may need to consider using RIPA, all of the Designated Authorising Officers, all SMTs, COB and COE. The training is to be delivered by the Lawyer (Litigation) and the Assistant Director, Law and Governance.

Quarterly Report – Directed Surveillance

16. Since the last Cabinet Report on this topic in September 2015 there have been no further authorisations granted. At that time you were informed that the last authorisation that had been granted was to carry out surveillance at a shop at which it was believed the sale of illicit or counterfeit cigarettes was taking place. Since then, a successful prosecution has been brought in relation to this matter.

Communications Data

17. There have been two authorisations granted by Magistrates pertaining to Communications Data since the last Cabinet Report. The first related to the possible sale of counterfeit goods via a Facebook page and the second related to a telephone number believed to have been used by an individual who was unlawfully disposing of waste that he was being paid to legally dispose of.

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.