

HAMBLETON DISTRICT COUNCIL

Report To: Audit, Governance and Standards Committee
21 March 2017

From: Director of Law and Governance (Monitoring Officer)

Subject: **REGULATION OF INVESTIGATORY POWERS ACT – REVIEW OF ACTIVITY
AND REVIEW OF POLICY**

All Wards

1.0 PURPOSE AND BACKGROUND:

- 1.1 The Council, like many public authorities, is governed by the Regulation of Investigatory Powers Act 2000 (RIPA). This Act ensures that public authorities comply with their obligations under the Human Rights Act when undertaking investigations which may interfere with the rights of individuals. The Act introduces safeguards on activities such as surveillance undertaken by public bodies.
- 1.2 The Audit, Governance and Standards Committee has been given responsibility for RIPA matters. This involves the Committee in reviewing the Council's Policy Statement from time to time and receiving quarterly reports on any activities which have been authorised under RIPA.

2.0 RIPA ACTIVITIES:

- 2.1 Although RIPA covers a number of activities undertaken by investigatory bodies (e.g., phone tapping by the Security Services and Police) its principle use in respect of Local Authorities relates to:-
- covert surveillance, and
 - covert human intelligence sources.
- 2.2 Covert surveillance covers the monitoring, observing or listening to persons, their movements, conversations or other activities and communications. It may be conducted with or without the assistance of a surveillance device and includes the recording of any information obtained. RIPA is most relevant to the Council's activities in effecting enforcement procedures such as the investigation and prosecution of offences. This would not normally include the initial investigation of contraventions such as planning enforcement or noise investigations, but would normally involve the later stages where criminal activity was a possibility. Although this could technically include breaches of Planning Enforcement Notices, breaches of Environmental Health Notices, fraud, etc., the Council's use of the powers has been very limited in recent years. For example, the Council has not used authorisations under the Act in the last three years.
- 2.3 From 1 November 2012 the Council is only able to use RIPA for directed surveillance for potential criminal activity with a possible penalty of at least six months imprisonment. This means that the Council can no longer use the procedure for low-level offences such as littering, dog control and fly-tipping. For serious offences the Council needs approval from a magistrate before it can use directed surveillance.
- 2.4 Another use of the Act is for the Police to authorise use of the Council's CCTV system for specific operations (general use of CCTV is not covered by the Act because this is not covert surveillance). The Police authorise themselves to use the Council's CCTV system for covert surveillance on approximately two occasions per year.

2.5 Covert human intelligence sources relate to the use of a third party to gather information. For example, this could be an informer or someone used to undertake test purchases. This is not an activity that the Council engages in at all. The Council also needs the approval of a magistrate to carry out this activity.

2.6 The only area in which the Council very occasionally involves itself where RIPA might be relevant is covert surveillance. It is necessary for the Council therefore to follow the legislation and the requirements of Government Codes of Practice. Most of the requirements of the Code are dealt with at an Officer level. However, Members are expected to approve a Policy on RIPA and to have some involvement in the monitoring of how the Council implements RIPA requirements.

3.0 REVIEW OF POLICY STATEMENT:

3.1 The Council's current Policy Statement on the use of powers under RIPA is attached as an Annex to this report. It is recommended that minor changes are made to reflect current post holder titles (see amendments to the attached policy in red).

4.0 INSPECTION BY THE OFFICE OF THE SURVEILLANCE COMMISSIONER:

4.1 The Office of the Surveillance Commissioner carried out its three-yearly inspection in November 2016. The report was generally positive, but suggested some actions:-

4.1.1 minor amendments to the Central Register of Authorisations;

4.1.2 a programme of training, including external trainers;

4.1.3 minor changes to the Council's guidance and procedure documents;

4.2 The recommendations will be implemented by Officers.

5.0 MONITORING OF RIPA ACTIVITY:

5.1 Codes of Practice on RIPA recommend that quarterly reports are made to Members on RIPA activity. Consideration of such reports has been delegated to the Audit, Governance and Standards Committee. This report therefore constitutes one of those reports and is intended to cover the period 25 January to 21 March 2017. There were no authorisations during this period. It is recommended that the Committee note the position.

6.0 RECOMMENDATION:

6.1 It is recommended that:-

- (1) the current Policy on the Regulation of Investigatory Powers Act be approved as amended;
- (2) it be noted that no RIPA authorisations were made by the Council during the period 25 January to 21 March 2017;
- (3) the position in respect of the inspection by the Office of the Surveillance Commissioner be noted.

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Background papers: HDC RIPA Register of Authorisations
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HAMBLETON
DISTRICT COUNCIL

REGULATION OF SURVEILLANCE ACTIVITIES
POLICY STATEMENT

The Council acknowledges that surveillance plays a necessary part in a number of its functions, on a day-to-day basis. To meet its legal obligations, the Council will comply with the Regulation of Investigatory Powers Act 2000 and in particular:-

- follow the principles of a Code of Practice reflecting the principles of the Covert Surveillance Code of Practice issued by the Home Office;
- make sure the Code of Practice is adopted for each Council function;
- make the Code readily available to officers, Members and customers;
- arrange for a central record of authorisations;
- make sure the authorisation process is followed for covert surveillance;
- ensure that surveillance is lawful under the Human Rights rules;
- provide guidance and training for Members and officers at an appropriate level;
- ensure there are designated officers within each Directorate, with responsibility for implementing the rules for surveillance activities;
- ensure the Director of ~~Corporate Services~~ Law and Governance monitors compliance with the rules for surveillance activities.

Monitoring Framework:

Monitoring compliance with these policy statements will include the following:-

- audits by the Director of ~~Corporate Services~~ Law and Governance;
- cross-audits by practitioners of other Sections;
- reports to Management Team and Audit, Governance and Standards Committee on the level of RIPA authorisations;
- checking examples of authorisations;
- use of other accepted methodology for monitoring RIPA compliance, as standards emerge.

February 2017