

REPORT TO CABINET

Open		Would any decisions proposed :		
Any especially affected Wards	Mandatory/	Be entirely within Cabinet's powers to decide	NO	
	Discretionary /	Need to be recommendations to Council	YES	
	Operational	Is it a Key Decision	NO	
Lead Member: Cllr B Long E-mail: Cllr.brian.long@west-norfolk.gov.uk		Other Cabinet Members consulted:		
		Other Members consulted:		
Lead Officer: Jo Furner E-mail: jo.furner@west-norfolk.gov.uk Direct Dial:		Other Officers consulted: Chief Executive, Monitoring Officer		
Financial Implications NO	Policy/Personnel Implications NO	Statutory Implications YES	Equal Impact Assessment YES/NO If YES: Pre-screening/ Full Assessment	Risk Management Implications YES/NO

Date of meeting: 28 June 2016

REGULATION OF INVESTIGATORY POWERS ACT (RIPA) POLICY

Summary

This Policy and the associated procedures are intended to ensure that investigations undertaken by the Council are conducted in accordance with the requirements of Regulation of Investigatory Powers Act 2000 (RIPA). RIPA ensures that when the Council needs to use covert investigation techniques, which by their very nature may otherwise be in breach of the HRA and ECHR, they are placed on a legitimate footing and that appropriate controls are put in place to ensure that the activities are properly controlled and monitored. It should be noted that these powers are only available in more serious cases and where other investigative methods are not appropriate or have been unsuccessful.

RIPA allows Local Authorities to carry out Directed Surveillance (surveillance of an individual/s for a specific purpose without their knowledge), use a Covert Human Intelligence Source (use of informants or undercover officers) and access communications data (obtaining subscriber information of a telephone number or internet user etc.) provided the investigatory activity is lawful, necessary, proportionate and non-discriminatory.

The requirements of the ECHR, HRA and RIPA impact on any officers of the Council who undertake investigatory or enforcement activities. This policy requires that all officers undertaking investigative activities only do so in accordance with the requirements set out by the Regulation of Investigatory Powers Act 2000 and its associated codes of guidance.

Recommendation

Adopt the revised Policy

Reason for Decision

The revised Policy captures only the broad principles behind RIPA and general responsibilities of the Council, whereas the finer details, including interpretation of the legislation and the procedure itself, are recorded in separate procedure documents, namely the toolkits. Therefore, updates and changes to legislation, interpretation and procedure can be made as and when required without frequent recourse to members.

Background

Presently, this Council has a detailed RIPA policy, which contains detailed statutory provisions and recommendations for practical application, along with details 'toolkits' which contain details of legal definitions, practical applications, working examples as well as step by step guides to the required procedures, including completing the requisite forms. Much of the information in the current policy is duplicated in the toolkits.

The law and practice associated with RIPA can be subject to frequent changes, whether that be changes to the primary or secondary legislation, its practical application by case law, following complaints to the Office of Surveillance Commissioner (OSC), or by recommendations by the OSC. Presently, any such changes need to be made both to the toolkits and the RIPA policy any such changes would mean recourse to members for the policy to be updated or amended, a lengthy process to make minor and reasonably frequent amendments.

In order to improve efficiency, the amended policy captures only the broad principles behind RIPA. The finer details, including interpretation of the legislation and the procedure itself, are to be recorded in a separate procedure document, namely the toolkits which are currently published on the intranet. These can be updated and refreshed as and when required. It is anticipated that these changes will be made by legal services as and when required. A similar strategy has been used at other local authorities, and it was welcomed by the OSC upon their inspection.

This policy is not meant to appear as a criticism of the existing policy document or the contents therefore, but represents a more simplified policy which deals with the rationale behind the legislation and the general responsibilities of the Council in terms of complying with the procedure, providing adequate training to relevant staff etc. It serves to avoid duplication of work, and means that changes in legislation or practice, which are quite often minor, can be made without recourse to members.

Options Considered

- Leave policy as is. In this scenario any changes to law or practice need to be detailed both in the existing policy and the practical toolkits, and such amendments to the former need to be approved by recourse to members, involving a written report and associated process to put the matter to members.
- Amend policy. This will reduce the number of times, and work associated with this, that the policy will need to be presented to members to keep abreast of changes in law and procedure and avoid duplication of work. Any pertinent changes can be brought to officer's attention by way of a short staff briefing referring to the updated toolkits.

Policy Implications

Financial Implications

- None

Personnel Implications

- None

Statutory Considerations

- Council required to have a policy to setting out its obligations with regards to RIPA

Equality Impact Assessment (EIA)

(Pre screening report template attached)

Risk Management Implications

- None on policy itself

Declarations of Interest / Dispensations Granted

- None

Background Papers

- Currently policy
- Revised policy
- Toolkits x 2

Pre-Screening Equality Impact Assessment



Name of policy/service/function	RIPA Policy
Is this a new or existing policy/ service/function?	Existing
Brief summary/description of the main aims of the policy/service/function being screened. Please state if this policy/service rigidly constrained by statutory obligations	This Policy and the associated procedures are intended to ensure that investigations undertaken by the Council are conducted in accordance with the requirements of Regulation of Investigatory Powers Act 2000 (RIPA). RIPA ensures that when the Council needs to use covert investigation techniques, which by their very nature may otherwise be in breach of the HRA and ECHR, they are placed on a legitimate footing and that appropriate controls are put in place to ensure that the activities are properly controlled and monitored.

Question	Answer				
1. Is there any reason to believe that the policy/service/function could have a specific impact on people from one or more of the following groups according to their different protected characteristic, for example, because they have particular needs, experiences, issues or priorities or in terms of ability to access the service? Please tick the relevant box for each group. NB. Equality neutral means no negative impact on any group.		Positive	Negative	Neutral	Unsure
	Age			x	
	Disability			x	
	Gender			x	
	Gender Re-assignment			x	
	Marriage/civil partnership			x	
	Pregnancy & maternity			x	
	Race			x	
	Religion or belief			x	
	Sexual orientation			x	
	Other (eg low income)			x	

Question	Answer	Comments
2. Is the proposed policy/service likely to affect relations between certain equality communities or to damage relations between the equality communities and the Council, for example because it is seen as favouring a particular community or denying opportunities to another?	No	
3. Could this policy/service be perceived as impacting on communities differently?	No	
4. Is the policy/service specifically designed to tackle evidence of disadvantage or potential discrimination?	No	
5. Are any impacts identified above minor and if so, can these be eliminated or reduced by minor actions? If yes, please agree actions with a member of the Corporate Equalities Working Group and list agreed actions in the comments section	No	Actions:
		Actions agreed by EWG member:

Assessment completed by: Jo Furner Name	
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Job title Solicitor	Date 13 May 2016
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