



North Devon Council

Report Date: Monday, 23 September 2024

Topic: Review of RIPA Policy

Report by: Simon Fuller, Senior Solicitor and Monitoring Officer

1. INTRODUCTION

1.1. This report brings the Council's Procedure for Ensuring Compliance with RIPA (Regulation of Investigatory Powers Act 2000) to the attention of Members for periodic review.

2. RECOMMENDATIONS

2.1. To approve that the Council's Procedure for Ensuring Compliance with RIPA (Regulation of Investigatory Powers Act 2000) is appropriate and shall remain as currently drafted

3. REASONS FOR RECOMMENDATIONS

- 3.1. The Investigatory Powers Commissioner's Office recommends that the Council's RIPA Procedures are presented to Members annually.
- 3.2. To allow Members to be familiar with the Council's procedures for compliance with RIPA and to have an oversight of if and when these powers are used.

4. REPORT

- 4.1. The Investigatory Powers Act 2016 (IPA 2016) overhauled the legal framework governing the use of covert surveillance by public bodies, a framework which was largely, but not exclusively, set out by the Regulation of Investigatory Powers Act 2000 (RIPA 2000). The Council has powers of surveillance under both the IPA 2016 and RIPA 2000.
- 4.2. There are three types of surveillance techniques available to local authorities:
- 4.2.1. the acquisition and disclosure of communications data (such as telephone billing information or subscriber details)
 - 4.2.2. directed surveillance (covert surveillance of individuals in public places), and
 - 4.2.3. covert human intelligence sources (CHIS) (such as the deployment of undercover officers)
- 4.3. Local authorities are able to use covert techniques in support of their statutory functions where they are responsible for enforcing the law. However this is understandably highly regulated.
- 4.4. The use of directed surveillance and CHIS remain largely governed by RIPA 2000 rather than by the IPA 2016. There are also Codes of Practice which accompany this law and which are updated by the Investigatory Powers Commissioner's Office (IPCO) (and such Codes of Practice have been

updated to reflect the changes to the oversight arrangements introduced by IPA 2016).

- 4.5. The Council's use of surveillance powers is kept under review by the Investigatory Powers Commissioner's Office (IPCO) who will make a report to the Council making recommendations. The Commissioner's officers advise local councils on the appropriate procedures, training and best practice to implement to ensure that operate within the legal framework and they have advised that these Procedures should be presented to Members for annual review.
- 4.6. The Council's Procedures as currently published are attached as Appendix A. As it provides in these Procedures, and as is appropriate, the Council's policy is to not use these covert surveillance powers save where absolutely necessary and the procedure is set out for what should be done where it is felt that it is necessary, including requiring the authority of named Authorised Officers. Adopting this practice has not been to the detriment of carrying out the Council's functions and the Council has not used these powers of surveillance since 2014, providing an annual nil return to the IPCO which requests statistics of how these powers are being used by public authorities across the country.
- 4.7. Training of staff is likely to be a point to review. Online training of authorised officers is being delivered but limited training of wider staff is in place at present and is likely to be appropriate to avoid inadvertently carrying out directed or other form of covert surveillance in breach of the Procedures in place.
- 4.8. On review of the wording against up to date law and Codes of Practice, it is considered that the Procedures are suitable without further revision.

5. RESOURCE IMPLICATIONS

5.1. None

6. EQUALITIES ASSESSMENT

6.1. This proposal has no relevance to equalities and the protected characteristics as it is a review of existing Procedures in place at present.

7. ENVIRONMENTAL ASSESSMENT

7.1. There are no environmental implications arising from the proposals in this report.

8. CORPORATE PRIORITIES

8.1. There is no particular impact on the Council's Corporate Priorities from this report.



9. CONSTITUTIONAL CONTEXT

9.1. The decision in respect of the recommendations in this report can be made by this Committee pursuant to delegated powers provided in Part 3 Annexe 1 paragraph 5 of the Constitution.

10. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

11. BACKGROUND PAPERS

The following background papers were used in the preparation of this report: (The background papers are available for inspection and kept by the author of the report).

North Devon District Council's Procedure for Ensuring Compliance with RIPA (Regulation of Investigatory Powers Act 2000)

12. STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers: Simon Fuller, Senior Solicitor and Monitoring Officer