

Annual Update - Regulation of Investigatory Powers Act 2000 (RIPA)	
Executive Summary	<p>The Council is required to have a Policy for the use of powers under the Regulation of Investigatory Powers Act 2000 (RIPA).</p> <p>Home Office guidance recommends that elected members should review the use of the RIPA powers and ensure the policy remains fit for purpose at least once per year.</p> <p>Officers have reviewed the Regulation of Investigatory Powers Act 2000 (RIPA) Policy and Procedures document and made no changes.</p> <p>Officers have reviewed the Internet & Social Media Research & Investigations Policy and identified that no changes are necessary at this time.</p> <p>The Council has made no use of powers under RIPA in the last 12 months.</p>
Options considered	The Policy is required to ensure proper application of the Act, so there is not an alternative option.
Consultation(s)	Consultation has been undertaken with the Monitoring Officer, who also acts as the Gatekeeper for RIPA activity.
Recommendations	<ol style="list-style-type: none"> 1. That Members note that there are no amendments required to the Regulation of Investigatory Powers Act 2000 Policy and Procedures. 2. That Members note that there are no amendments required to the Internet & Social Media Research & Investigations Policy. 3. That Members note there has been no activity undertaken under RIPA within the period since the last report.
Reasons for recommendations	<p>The Council is required to have an up to date policy/procedure in order to exercise its powers.</p> <p>Members are required to be aware of the RIPA activity undertaken by the Council.</p>
Background papers	None

Wards affected	All
Cabinet member(s)	Cllr Calum Ringer

Contact Officer	Steve Hems, Director for Communities 01263 516192 Steve.hems@north-norfolk.gov.uk
------------------------	---

Links to key documents:	
Corporate Plan:	This item does not directly relate to delivery of the Corporate Plan objectives but is a statutory requirement.
Medium Term Financial Strategy (MTFS)	There is no direct impact on the Medium-Term Financial Strategy.
Council Policies & Strategies	NNDC Regulation of Investigatory Powers Act 2000 (RIPA) Policy and Procedures NNDC Internet & Social Media Research & Investigations Policy

Corporate Governance:	
Is this a key decision	No
Has the public interest test been applied	Yes, not exempt
Details of any previous decision(s) on this matter	N/A

1. Purpose of the report

To demonstrate that the Council has met best practice, in the Home Office guidance, that members should review the use of the RIPA powers and ensure the policy remains fit for purpose at least once per year.

To inform members that the Regulation of Investigatory Powers Act 2000 (RIPA) Policy and Procedures and Internet & Social Media Research & Investigations Policy have been reviewed.

To advise members that no changes have been identified as required to the Regulation of Investigatory Powers Act 2000 (RIPA) Policy and Procedures document.

To advise members that no changes are required to the Internet & Social Media Research & Investigations Policy.

To request that members accept the Regulation of Investigatory Powers Act 2000 (RIPA) Policy and Procedures and the Internet & Social Media Research & Investigations Policy documents as fit for purpose.

To inform members there has been no use of powers under RIPA since the last annual update report.

2. Introduction & Background

The Human Rights Act 1998 gave effect in UK law to the rights set out in the European Convention on Human Rights (ECHR). Some of these rights are absolute, while others are qualified, meaning that it is permissible for the state to interfere with those rights if certain conditions are satisfied.

Amongst the qualified rights is a person's right to respect for their private and family life, home and correspondence, as provided for by Article 8 of the European Court of Human Rights. It is Article 8 that is most likely to be engaged when public authorities seek to obtain private information about a person.

The performance of certain investigatory functions of Local Authorities may require the surveillance of individuals or the use of undercover Officers and informants. Such actions may intrude on the privacy of individuals and can result in private information being obtained and as such, should not be undertaken without full and proper consideration.

The Regulation of Investigatory Powers Act 2000 (RIPA) governs these activities and provides a means of ensuring that they are carried out in accordance with law and subject to safeguards against abuse. If relevant surveillance activity does not comply with the requirements set out in the legislation and related Codes of Practice, it opens the Council up to the risk of challenge under the Human Rights Act and failure of any legal action which may seek to rely on evidence collected through this method.

Home Office's guidance recommends that, to attain best practice: "...elected members of a local authority should review the authority's use of the 2000 Act and set out the policy at least once a year. They should also consider internal reports on use of the 2000 Act on a regular basis to ensure that it is being used consistently within the local authority's policy and that the policy remains fit for purpose."

The Council uses powers under RIPA to support its core functions for the purpose of prevention and detection of crime where an offence may be punishable by a custodial sentence of 6 months or more.

The three powers available to local authorities under RIPA are:

- directed surveillance;
- covert human intelligence sources ("CHIS");
- the acquisition and disclosure of communications data.

RIPA requires that when a Council undertakes covert directed surveillance or uses a CHIS, these activities must be authorised in advance by an officer who must then seek the approval by a Magistrate/Justice of the Peace.

This Authority will only ever be required to deal with matters relating to directed surveillance and the use of covert human intelligence sources (CHIS). The acquisition of communications data, if ever required, is undertaken through the National Antifraud Network (NAFN). They act as the single point of contact for many local authorities and ensure the application is RIPA compliant. It is NAFN that are audited by the commissioners.

Public bodies are required to formally establish arrangements and responsibilities for approving directed surveillance under RIPA and these arrangements are described in the Policy and Procedure.

3. Policy and Procedures - Review and Update

3.1 Regulation of Investigatory Powers Act 2000 Policy and Procedures

The Policy and Procedures was subject to a significant review and overhaul in 2023 and last year a number of minor changes were made to ensure that the policy and procedures were up to date and accurate.

In line with national guidance an annual review has been undertaken. This has identified that the current policy remains fit for purpose and no further changes have been identified,

This is an Operational Policy outside the Policy Framework so a recommendation for Council to approve it is not required.

3.2 The Internet and Social Media Research and Investigations Policy

The Internet and Social Media Research and Investigations Policy has been produced as a separate document to the RIPA Policy and Procedures. This is to ensure that it is readily understood by all those who use the internet or social media to gather information as part of the delivery of their role.

The policy established the approach that North Norfolk District Council takes to ensure that all online research and investigations are conducted lawfully and ethically, are in compliance with the relevant legislation, government guidance and best practice. This reduces the risk of challenge and to ensure that the activity undertaken, and any evidence obtained, will stand scrutiny in any subsequent criminal proceedings.

There have been no requirements for amendments identified during the review process. This is an Operational Policy outside the Policy Framework so a recommendation for Council to approve it is not required.

3.3 Training

Update and refresher training was delivered in December 2023. This refresher training ensured that 27 Officers who were likely to undertake surveillance as part of their role would have a better general awareness of where and how the Regulation of Investigatory Powers Act applies and the requirements of the application process.

Authorising Officers and the Senior Responsible Officer also received update training to ensure that the process of authorising any applications was well understood.

A further refresher training session is booked for January 2025. This training will ensure that relevant Officers remain competent to make applications in a consistent and lawful manner including any new Officers that have joined the Council since the last training was provided.

3.4. **Intranet site**

Since the last annual report significant work has gone into the development of a page on the intranet. This site is designed to be a repository of information relevant to RIPA and related activity and enables Officers to gain information from a single source.

The areas covered by the intranet site include the following areas of information and guidance:

- NNDC Policies and Procedures
- Intranet and Social Media Guidance
- Best Practice Guidance
- RIPA and CHIS Form Guidance
- Digital Evidence Guidance
- Body Worn Video Guidance

This site is checked and maintained regularly by the RIPA Co-ordinator and any updates to documents or additional guidance are provided in a timely manner.

3.5 **Investigatory Powers Commissioners Office (IPCO) Inspection**

All public authorities are subject to periodic inspection by the Investigatory Powers Commissioners Office (IPCO) who independently oversee the use of investigatory powers, ensuring they are used in accordance with the law and in the public interest. The Council was subject to a remote inspection by an IPCO Inspector on the 17 February 2021. The outcome of that inspection was reported to Cabinet in September 2021.

IPCO undertake periodic inspections on a risk based frequency, reflecting previous compliance and how much the powers are used by an Authority. It is usual for an inspection every two to three years.

The Council received a pre-inspection questionnaire in June 2023, seeking information regarding its use of the powers and the steps taken to ensure that adequate steps had been taken to ensure compliance with the relevant legislation, guidance and codes of practice. Following the full response to the questionnaire a meeting took place between the IPCO inspector and Steve Hems, as the Senior Responsible Officer, and Kaye Skinner as the RIPA Co-ordinator.

The inspector was satisfied that the Council had provided assurance of compliance with the requirements of RIPA and that the single authorisation that had been made during the period was completed to a good standard.

The Inspector has stated that, in light of the above, the Council is not due a further inspection until 2027.

3.6 **Use of RIPA Powers by the Council**

No applications for the use of directed surveillance have been made during the time since the last annual report.

No applications for the use of covert human intelligence sources have been made during the time since the last annual report.

No applications for the disclosure of communications data were made during the above period.

Investigations have been progressed using other investigation techniques to gather information and evidence, which is consistent with the approach set out in the Policy and Procedures.

4. Corporate Priorities

This item does not directly relate to delivery of Corporate Priorities but is a statutory requirement.

5. Financial and Resource Implications

There are no financial or resource implications associated directly with the implementation of the Policy.

Non-compliance with the legislation associated with covert surveillance leaves the Authority open to challenge and formal claims for compensation from individuals or corporate bodies should it be found that appropriate guidelines and procedures have not been followed. IPCO may also audit our compliance with RIPA and impose penalties where the authority is found to be in non-conformance. Evidence obtained from surveillance conducted under an outdated or non-compliant RIPA Policy and Procedure would be inadmissible or liable to fail challenge in any legal proceedings which could result in the award of costs against the Council.

6. Legal Implications

The Human Rights Act 1996 makes it unlawful for a Local Authority to breach any article of the European Convention on Human Rights (ECHR).

Article 8 of the ECHR states that:

- 1) everyone has the right of respect for his private life, his home and his correspondence
- 2) there shall be no interference by a Public Authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention and detection of crime, for the protection of health and morals, or the protection of the rights and freedoms of others.

Public Authorities can therefore interfere with the Article 8 rights if it meets the reasons given above. The Regulation of Investigatory Powers Act sets the lawful basis for interference with those qualified rights to ensure that any activity undertaken and any information obtained is compatible with the Human Rights Act.

The Policy and Procedures document sets the framework under which the Council undertakes surveillance which meets the definitions under the Regulation of Investigatory Powers Act and is undertaken following correct authorisation and approvals, therefore reducing the risk to the authority of legal challenge.

There are reputational and legal risk implications if the RIPA policy is out of date and/or out of step with legal obligations under the act or relevant Home Office Guidance.

If surveillance is conducted which does not comply with the Act, Home Office guidance and/or best practice the Council is open to challenge under the Human Rights Act or may face sanctions being imposed by the Investigatory Powers Commissioners Office.

Any evidence obtained from surveillance conducted outside of the RIPA Policy would be inadmissible or liable to fail challenge in any legal proceedings.

7. Risks

None identified as a direct result of this report.

8. Net Zero Target

There are no sustainability issues arising from this report.

9. Equality, Diversity & Inclusion

There are no Equality Diversity and Inclusion issues arising directly from this report. These are considered as an integral part of the process when making decisions regarding the use of RIPA powers.

10. Community Safety issues

None identified as a direct result of this report.

The Regulation of Investigatory Powers Act Policy and Procedure applies where it is necessary and proportionate to collect personal information through covert means. This is only the case where the offence being investigated meets the serious crime threshold where a conviction for an offence could result in 6 months imprisonment. Circumstances where RIPA powers are likely to be used are therefore more likely to have Community Safety implications.

11. Conclusion and Recommendations

This report provides Members with an annual update on the use of RIPA powers and that it is following best practice identified in Home Office Guidance.

1. That Members note that there are no amendments required to the Regulation of Investigatory Powers Act 2000 Policy and Procedures.
2. That Members note that there are no amendments required to the Internet & Social Media Research & Investigations Policy.
3. That Members note there has been no activity undertaken under RIPA within the period since the last report.