

8. Regulation of Investigatory Powers Act 2000

Purpose of report

1. To approve the adoption of a policy regarding the authorisation of covert investigatory techniques under the Regulation of Investigatory Powers Act 2000.
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Recommendations

The Clerk recommends that:

- i) the draft policy on the use of the Regulation of Investigatory Powers Act 2000, attached, including the appointment of 'Authorising Officers' and 'Senior Responsible Person' as contained therein, be approved; and*
- ii) in accordance with the Home Office code of practice, an annual report be made to the Policy and Resources Committee with a review of the policy and the Authority's use of powers under the Act.*

Introduction and Background

2. The Regulation of Investigatory Powers Act 2000 ("RIPA") sets out procedural rules to enable specified public authorities to use covert investigatory techniques which might otherwise infringe legal rights to privacy and respect for family life under the Human Rights Act 1998. In particular they govern when and how hidden surveillance, covert witnesses and interception of communications can be used. Fire Authorities are included in the list of public authorities that can rely on RIPA.
3. This Authority has no history of using the covert investigatory techniques covered by RIPA and there is no expectation that there will be a need to use them in the future. It is anticipated that the Authority will usually be able to gather all the information required for its statutory functions without covert information gathering. This policy does not change this position. The purpose of this policy is to:
 - (a) reinforce advice to officers that the use of covert investigatory techniques should be avoided in most circumstances;
 - (b) ensure that should the unforeseen and exceptional eventuality arise when reliance on RIPA is needed there will be a clear procedure for handling its use; and
 - (c) meet the requirements of the Office of Surveillance Commissioners.

4. The terms of the policy have been drafted so as to comply with the requirements of the Codes of Practice issued by the Home Office under RIPA. It has also been informed by a review of available RIPA policies of other fire authorities, in particular London Fire Brigade.
5. Use of RIPA is overseen by the Surveillance Commissioners (for Directed Surveillance and Covert Human Intelligence Sources) and the Interception of Communications Commissioner (for access to communications data). This includes inspections. The draft policy was reviewed and approved by the Assistant Surveillance Commissioner during a recent inspection of the Service.

Role of Members

6. Best practice under the Codes of Practice requires Members of local authorities, including fire authorities, to set the policy on the use of RIPA and to review it annually. However under the Codes, Members should not be involved in considering any particular application to rely on RIPA.

Conclusion/Summary

7. This Authority has no record of using the covert techniques covered by RIPA and it is not envisaged we will need to do so in future but we are nonetheless required to have a policy in place to deal with that eventuality should it arise. The policy ensures that any applications to use the covert techniques covered by RIPA must be made using the appropriate Home Office forms and must be approved by one of the designated 'Authorised Officers' set out in this policy.

Financial Considerations

Consideration	Yes/No	Reference in Report i.e. paragraph no.
There are financial issues that require consideration	No	

Legal Considerations

Consideration	Yes/No	Reference in Report i.e. paragraph no.
There are legal issues e.g. contractual and procurement, reputational issues that require consideration	Yes	Whole report

Additional Considerations

8. The table below sets out any additional issues arising from the proposals contained in this report and identifies the relevant paragraphs in the report where such issues are addressed.

Consideration	Yes/No	Reference in Report i.e. paragraph no.
Resources (e.g. Assets, ICT, Human Resources, Training & Development, Sustainability).	No	
Strategic Policy Links (e.g. IRMP, Authority Plan, Equality & Diversity, Partnerships, Environmental Impact).	No	
Risk Management / Health & Safety (e.g. risk management and control measures, risk register score).	No	
Consultation with Representative Bodies	Yes	Any response will be reported to the meeting

Supporting Information

Appendix 1 – Draft Regulation of Investigatory Powers Act 2000 Policy

Background papers – Home Office: ‘Covert Surveillance and Property Interference – Revised Code of Practice’ 2010

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