

**REVIEW OF RIPA POLICIES & PROCEDURES
(Joint Report by Heads of Legal and Democratic Services and of
Customer Services)**

1. INTRODUCTION

- 1.1 Article 8 (RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE) of the Human Rights Act 1998 (HRA) states that every person shall have the right to respect for his private and family life, home, and correspondence. The Article states that there shall be no interference with this right by any public body except in accordance with the law. The Article, unlike many of the other Articles, does not give an absolute right to privacy where national legislation, compliant with HRA, states that the right can be suspended
- 1.2 The Regulation of Investigatory Powers Act 2000 (RIPA) was introduced to provide law enforcement agencies with a legal gateway and strict guidance on when and how the subject of an investigation can have their Article 8 rights suspended. Contrary to much press publicity Local Councils can use the powers conferred by RIPA but only for the purposes of the detection and prevention of crime.
- 1.3 Local Councils can use RIPA Authorisations to conduct 'Covert Directed Surveillance' or acquire 'Communications Data'. The Legislation, guidance and Code of Practice for both these areas is provided by the Home Office.
- 1.4 Huntingdonshire District Council (HDC) has had policies in place since 2001 which ensure that officers conducting these activities are fully trained and conversant with both the law and the most recent guidance from the Home Office.

2. Commissioners

- 2.1 RIPA provided for the creation of two commissioners to oversee the two areas of RIPA which affect HDC. The Office of the Surveillance Commissioner (OSC) and the Interception of Communication Commissioner Office (IOCCO) carry out these two separate functions.
- 2.2 The Council is required, whether there is a policy in place or not, to provide annual reports to both commissioners on all activity undertaken. The OSC inspect every Local Council affected by RIPA every three years and the IOCCO conduct random inspections.

3. Recent Changes

- 3.1 In October 2012 the Government introduced a stricter regime for Local Authorities when using the provisions of RIPA. This included the requirement for all applications to be authorised by a Justice of the Peace (JP) and that all RIPA activity, as defined in the Home Office Guidance, only take place where 'serious crime' was being investigated.
- 3.2 In early 2013 the Home Office produced new guidance and Codes of Practice for the amended requirements that Local Authorities had to meet.
- 3.3 The Council has now reviewed its own policies in light of these changes and addressed both issues of seriousness and JP authorisation, as well as fully adopting the Home Office guidance on covert surveillance and the acquisition of communications data.
- 3.4 The changes to Council policies required as a result of the legislative changes outlined in this report are significant. If any future minor changes are required it is proposed that these be dealt with in consultation with the Chairman of Corporate Governance Panel and reported to that Panel to avoid the necessity of a report to full council for every change.

4. Recommendation

that the Panel recommend to Council

- (a) the adoption of the RIPA (Surveillance) Policy and Procedure as set out in Annex A.
- (b) the adoption of the new RIPA (Communications Data) Policy and Procedure as set out in Annex B.
- (c) authorising the Head of Legal and Democratic Services to make any consequential amendments to the Constitution .
- (d) authorising the Head of Legal and Democratic Services to make any amendments to the policies in future after consultation with the Chairman of Corporate Governance Panel and subject to the matter being reported to the next meeting of Corporate Governance Panel

ATTACHED.

Annex A. HDC Policy - Covert Surveillance- Regulation of Investigatory Powers Act 2000

Annex B. HDC Policy- Acquisition of Communications Data -Regulation of Investigatory Powers Act 2000

BACKGROUND INFORMATION

Human Rights Act 1998

Regulation of Investigatory Powers Act 2000

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