



Agenda item:

Decision maker:	Governance & Audit & Standards Committee
Subject:	Regulation of Investigatory Powers Act 2000 (RIPA)
Date of decision:	29 th July 2019
Report from:	Elizabeth Goodwin, Chief Internal Auditor
Report by:	Lorraine Lindsay, Audit & Investigations Officer
Wards affected	All
Key decision (over £250k)	N/A

1. Summary

- 1.1 Following the issue of updated (September 2018) Codes of Practice and Guidance by the Investigatory Powers Commissioner's Office (IPCO) and a change in personnel, minor amendments are proposed to be made to the Policy. There has not been any RIPA application since the last report to Committee on the 29th January 2016.

2. Purpose of report

- 2.1 To update Members on the Authority's use of Regulatory Powers for the period from 29th January 2016 to 5th July 2019 and the changes required to the Policy.

3. Background

- 3.1 PCC has a Policy and Procedures to ensure that officers comply with the Regulation of Investigatory Powers Act 2000 requirements to mitigate any risk of legal challenge. These documents are updated when there are changes in the codes of practice or legislation, including case law and personnel.

4. Recommendations

It is recommended that Members of the Governance and Audit and Standards Committee:

- 4.1 Note that there have not been any RIPA applications authorised since the last report to this Committee on the 29th January 2016,
- 4.2 Approve the required changes detailed under section 6, which have been made following the introduction of new Codes of Practice and Guidance and changes key in personnel.

5. Development since the previous reporting period

- 5.1 There has not been any RIPA activity for a number of years and none for the period noted. PCC were last inspected by Sir David Clarke (Assistant Surveillance Commissioner) in May 2016, who concluded that the high standards reported at the conclusion of the previous inspection in April 2013 had been maintained.
- 5.2 Since 1st September 2017 Lord Justice Fulford became the Investigatory Powers Commissioner and the Investigatory Powers Commissioner's Office (IPCO) took over the inspection and oversight functions in the single independent function which had been carried out by previous commissioners' offices', (Office of the Surveillance Commissioner - OSC, Chief Surveillance, Interception of Communications, and Intelligence Services Commissioners).

6. Changes to Policy

- 6.1 The proposed changes to the RIPA Policy & Procedures are highlighted on the attached document Appendix A and are as follows:
- 6.1.1 **Policy Title:** Page 1, Policy Owner has changed from Michael Lawther (Deputy Chief Executive & Senior Responsible Officer) to Elizabeth Goodwin (Chief Internal Auditor & new Senior Responsible Officer). Policy Author, from Elizabeth Goodwin to Lorraine Lindsay (Audit & Investigation Officer). This page has also been updated with 'contractors' (acting on behalf of the Authority) added.
- 6.1.2 **Policy Statement:** Paragraph 1.8, Statutory Instrument updated from 2003 No. 3171 to 2010 No. 521.
- 6.1.3 **Terms Explained:** Paragraph 3.3, additional narrative provided for clarity relating to Covert Human Intelligence Sources. Paragraph 3.4 & 3.5 - Collateral Intrusion also updated to provide clarity around the definition of collateral intrusion. Paragraph 3.7, the word 'prolonged' amended to 'targeted'.
- 6.1.4 **Confidential Material:** Paragraph 3.8, additional narrative has been added to give clarity relating to confidential material.
- 6.1.5 **Juvenile Sources:** Paragraph 4.4.1 has been added to provide clarity on juvenile sources. Paragraph 5.12 has been amended as the duration of any authorisation has been amended from one month to four months. In addition, wording has been added relating to the requirement of any authorisation to be subject to at least monthly reviews.
- 6.1.6 **Covert Surveillance of Social Network Sites (SNS):** Paragraph 4.6 has been amended following additional guidance under the Home Office revised Code of Practice. 4.6.1 to 4.6.7 are all new detailed inclusions.
- 6.1.7 **Risk Assessment - Duty of Care:** Paragraphs 5.4 to 5.6 have been added to ensure that guidance is provided in the 'duty of care' to a covert human intelligence source (CHIS) and the need to perform risk assessments.

- 6.1.8 **CCTV & Aerial Covert Surveillance:** Paragraph 6.2 has been added following guidance provided by the Home Office.
- 6.1.9 **Oversight and IPCO Guidance - Senior Responsible Officer:** Paragraph 10.1 has been updated to change the Senior Responsible Officer from Michael Lawther to Elizabeth Goodwin. 10.5 has also been updated to reflect the change in independent oversight from the Office of the Surveillance Commissioner to the Investigatory Powers Commissioners Office.
- 6.1.10 **Complaints:** The phone number noted for the Investigatory Powers Tribunal has been updated.
- 6.1.11 **Appendix A - Contacts:** The contact details have been amended to include a new 'Authorising Officer' Paul Somerset - Deputy Chief Internal Auditor, who has replaced Elizabeth Goodwin - Chief Internal Auditor.

7. Equality impact assessment (EIA)

This is an information report only and therefore does not require an equalities impact assessment.

8. Legal Implications

- 8.1 The Legal implications are incorporated within the body of this report. There are no other immediate legal implications arising from this report

9. Finance Comments

- 9.1 There are no financial implications arising from the recommendations set out in this report.

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 Signed by: Elizabeth Goodwin, Chief Internal Auditor, Senior Responsible Officer for RIPA.

Appendices: APPENDIX A UPDATED POLICY

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
1 Covert Surveillance Code of Practice Issued by the Home Office and Covert Human Intelligence sources Code of Practice issued by the Home Office	https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742041/201800802_CSPI_code.pdf

2	Regulation of Investigatory Powers Act 2000	http://www.legislation.gov.uk/ukpga/2000/23/contents
3	Portsmouth City Council Regulation of Investigatory Powers Act Policy	Revised Policy attached as Appendix to this report.
4	Protection of Freedoms Bill	http://www.homeoffice.gov.uk/publications/about-us/legislation/protection-freedoms-bill/