

	REPORT TO CABINET TO BE HELD ON 17 NOVEMBER 2015
	Key Decision NO Forward Plan Ref N/A No
Corporate Priority: ALL	Cabinet Portfolio Cllr. Helen Holder Mallory Cllr. Michelle Donohue- Moncrieff

REPORT OF THE DIRECTOR (LD) - 15/312

WARDS AFFECTED: ALL

SUBJECT: Inspection Report from the Office of Surveillance Commissioners

RECOMMENDATION(S):

That Cabinet:

- (i) note the positive Inspection Report from the Office of Surveillance Commissioners;
- (ii) recommend that Cabinet put forward the amended RIPA policy and procedure document (set out at **Appendix A**) to Full Council for adoption into the Council's policy framework.

REASON FOR RECOMMENDATION(S):

To apprise Members of the Council's compliance with the Regulation of Investigatory Powers Act 2000 (RIPA) and the outcome of the three yearly routine inspection, and to ensure that the Council's policy remains appropriate.

HIGHLIGHTED RISKS

Failure to update the policy to reflect latest developments will increase the risk of non-compliance with the legislation and regulatory framework, and run contrary to the Surveillance Commissioner's report and recommendations.

1. INTRODUCTION

- 1.1 In undertaking its functions the Council must comply with the Human Rights Act 1998 (HRA). Article 8 of the HRA sets out the right to respect for private and family life. This is a qualified right and in certain circumstances interference can be justified (as explained within Article 8 itself).
- 1.2 The Regulation of Investigatory Powers Act 2000 (RIPA) provides a statutory framework under which the Council may seek authorisation to interfere with this right, but only where such interference is:
 - (a) in accordance with the law;
 - (b) necessary; and
 - (c) proportionate.
- 1.3 Under RIPA the Council may seek authorisation to permit directed surveillance, the use of covert human intelligence sources (CHIS), and the acquisition and disclosure of communications data.
- 1.4 The Council's use of RIPA is tightly controlled. All authorisations are subject to approval by the Magistrates' Court, and the use of directed surveillance is only permitted for the purpose of:
 - (a) the prevention or detection of criminal offences (at least one of which must be punishable by a maximum of at least 6 months imprisonment);
 - (b) disorder involving at least one criminal offence (that is punishable by a maximum of at least 6 months imprisonment); or
 - (c) prescribed offences relating to the underage sale of alcohol and tobacco.
- 1.5 All bodies entitled to make use of RIPA are subject to inspections every 3 years by the Office of Surveillance Commissioners (OSC). During this inspection the OSC assesses compliance with the legislation, the content of policies and procedures, the staffing structures in place to monitor compliance, and the knowledge and training of Officers.

2. CORPORATE AIMS/PRIORITIES AND THE COMMUNITY PLAN

- 2.1 This report supports all of the corporate aims and the community plan.

3. BACKGROUND AND ISSUES

- 3.1 Deputy Surveillance Commissioner His Honour Judge Norman Jones QC inspected the Council on 25 June 2015, and was accompanied by Surveillance Inspector Mr Martin Andrew.
- 3.2 The inspection took place over the space of one day, and included interviews with the Council's Director of Democratic and Legal Services, and the Regulatory and Governance Manager. Among the issues discussed were the actions taken on the recommendations following the previous inspection (in July 2012), reasons for a reduction in authorisations, RIPA management, authorising officers, training, CHIS, social media, recent legislation, Councillors, and CCTV.

4. CONSULTATION

- 4.1 None.

5. ASSESSMENT

- 5.1 The Director (LD) has now received the formal inspection report from the OSC, which is headed "OFFICIAL – SENSITIVE". As such a copy has not been appended to this report, however with the permission of the OSC short extracts and the 'Conclusions' of the report are set out below, so as to demonstrate to Members and the public that the Council is compliant.
- 5.2 The report itself is very encouraging and commends the Council on its practice and compliance since the previous inspection. In the covering letter, the Chief Surveillance Commissioner The Rt. Hon. Lord Judge states (inter alia):

"I enclose a copy of the positive Inspection Report to Scarborough Borough Council...It is clear that the sensitive issues to which RIPA legislation can give rise have been carefully addressed..."

- 5.3 Extracts from the 2015 Inspection Report

"...Ms Dixon and Mr Kitson fully understand their responsibilities...Both impressed as officers with a good knowledge of RIPA and with a determination to ensure the compliance of the Council with the Act and its regulatory framework..."

"...The RIPA officers are well aware that an authorising officer must be trained before undertaking authorisations. Such training has been undertaken on two occasions since the last inspection and will shortly be arranged again..."

“...The Council’s RIPA Policy and Procedures has been revised since the last inspection and now incorporates both the relevant provisions of the Protection of Freedoms Act 2012 and the RIPA (Directed Surveillance and CHIS)(Amendment) Order 2012, SI 2012/1500 together with most of the amendments recommended in the last inspection report...It now provides a concise and informative document on the subject which should provide assistance to all those who may be involved in the RIPA process either as applicants, authorising officers or officers exercising oversight. Some further amendments were suggested which may further improve it...”

5.4 Conclusions from the 2015 Inspection Report

“It is reassuring to be able to report that Scarborough BC has made a number of improvements since the last inspection was undertaken. The recommendations of the last inspection report have substantially been undertaken and those outstanding will be discharged in the near future. The officers interviewed were aware of their RIPA responsibilities and both demonstrated a good knowledge of the subject. Mr Kitson, who has not been without his own personal problems recently, notably impressed with his enthusiasm to develop IT training and to ensure that a high standard of authorisation is achieved irrespective of its frequency of production.

The few recommendations are directed at marginal improvements rather than more comprehensive changes.

Since the Council has undertaken no authorisation since the last inspection this inspection has been unable to determine whether practices would be of a high standard. However, with the changes that have been made, the improvements in training and the enthusiastic and determined attitude of the RIPA officers, reasonable confidence may be expressed that a good standard would be achieved.

5.5 As stated within the above, there were a small number of recommendations to further improve the Council’s practice. The bulk of these recommendations have already been addressed, and in particular amendments have been made to the Council’s RIPA policy and procedure document.

5.6 A copy of the draft policy and procedure document is attached at **Appendix A.**

6. IMPLICATIONS

6.1 All relevant implications have been considered in the body of this report.

7. ACTION PLAN

- 7.1 Should Cabinet recommend approval of the draft policy and procedures document, it will be placed before the next meeting of Full Council for final approval and adoption into the Council's policy framework.



Lisa Dixon
Director

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Background Papers:

2015 OSC Inspection Report Scarborough Borough Council – this document is not available for inspection and is exempt from disclosure pursuant to Part VA of the Local Government Act 1972.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT David Kitson ON 01723 232323 or e-mail david.kitson@scarborough.gov.uk