

**Manchester City Council
Report for Resolution**

Report to: Executive – 13 March 2019

Subject: Annual update on use of Regulation of Investigatory Powers Act 2000 ('RIPA')

Report of: City Solicitor

Summary

To seek the approval of the Executive to minor revisions to the Counsel's RIPA Corporate Policy and Procedures ('the RIPA Policy').

To advise the Executive on the Council's use of RIPA between 1 July 2017 to 30 June 2018.

Recommendations

That the Executive:

1. Approve the minor revisions to the Council's RIPA Policy appended to this report.
 2. Note the information in paragraph 1.5 regarding the Council's use of RIPA for the period 1 July 2017 to 30 June 2018.
-

Wards Affected: All

Manchester Strategy outcomes	Summary of how this report aligns to the OMS
A thriving and sustainable city: supporting a diverse and distinctive economy that creates jobs and opportunities	Non directly applicable
A highly skilled city: world class and home grown talent sustaining the city's economic success	Non directly applicable
A progressive and equitable city: making a positive contribution by unlocking the potential of our communities	Non directly applicable
A liveable and low carbon city: a destination of choice to live, visit, work	Non directly applicable

A connected city: world class infrastructure and connectivity to drive growth	Non directly applicable
---	-------------------------

Full details are in the body of the report, along with any implications for:

- Equal Opportunities Policy
- Risk Management
- Legal Considerations

Financial Consequences – Revenue

None directly.

Financial Consequences – Capital

None directly.

Contact Officers:

Name: Fiona Ledden
Position: City Solicitor
Telephone: 0161 234 3087
E-mail: fiona.ledden@manchester.gov.uk

Name: Ian Mark
Position: Principal Lawyer
Telephone: 0161 234 5378
E-mail: i.mark@manchester.gov.uk

Background documents (available for public inspection):

Regulation of Investigatory Powers Act 2000 (RIPA) Corporate Policy and Procedures dated 27 July 2016.

1.0 Introduction

- 1.1 The Regulation of Investigatory Powers Act 2000 ('RIPA') puts a regulatory framework around a range of investigatory powers used by local authorities. This is done to ensure the powers are used lawfully and in a way that is compatible with the European Convention on Human Rights. It also requires, in particular, those authorising the use of covert surveillance techniques to give proper consideration to whether their use is necessary and proportionate.
- 1.2 RIPA legislates for the use by local authorities of covert methods of surveillance and information gathering to assist in the detection and prevention of crime in relation to an authority's core functions. There are three separate investigatory powers available to the Council under RIPA:
 - Obtaining communications data – the 'who, when and where' of communications, such as telephone billing or subscriber details. However it does not include the 'what' (ie the content of what was said or written).
 - Covert directed surveillance – which includes covert surveillance in public areas (not including residential premises or private vehicles which is never permissible) and CCTV which is likely to result in the obtaining of private information.
 - Use of covert human intelligence sources ('CHIS') – this includes undercover officers, public informants and people making test purchases (relevant in trading standards cases, for example).
- 1.3 The Council's use of RIPA has previously been subject to regular inspection by the Office of the Surveillance Commissioner ('OSC') in respect of covert surveillance authorisations under RIPA. During these inspections authorisations and procedures are closely scrutinised and relevant Council officers are interviewed by the OSC Inspector. On 1 September 2017, the OSC was abolished by the Investigatory Powers Act 2016. The Investigatory Powers Commissioner's Office (IPCO) is now responsible for the judicial oversight of the investigatory powers under RIPA by public authorities throughout the United Kingdom.
- 1.4 The Council's RIPA Policy covering the obtaining of communications data, covert directed surveillance and the use of covert human intelligence sources was revised in July 2016 to incorporate minor revisions recommended by the OSC Inspector during his inspection of the Council on 22 October 2015. The Council's RIPA policy is being further revised to incorporate the Home Office revised Code of Practice on Covert Surveillance and Property Interference and revised Code of Practice on Covert Human Intelligence Source. The Council's RIPA policy is appended to this report and the changes made are highlighted in bold.
- 1.5 In accordance with the Home Office RIPA Codes of Practice which require local authorities to involve elected members in strategic oversight of RIPA including setting the relevant Policy and considering reports on its use by the Council the Executive is advised that between 1 July 2017 and 30 June 2018 the Council used covert directed surveillance once which related to a test purchase into the alleged storage and sale of alcohol without a licence

contrary to section 136 and section 138 of the Licensing Act 2003. The Council has not used RIPA to obtain communications data between 1 July 2017 and 30 June 2018.

- 1.6 In October 2017 and November 2017, external refresher training into the use of RIPA was arranged for the Council's designated Authorising Officers for the use of RIPA. The training was also arranged for relevant officers from service areas most likely to use or advise on RIPA, in line with the Council's corporate RIPA policy.

2.0 Alignment to the Our Manchester Strategy Outcomes

- (a) A thriving and sustainable city**
Not directly applicable.
- (b) A highly skilled city**
Not directly applicable.
- (c) A progressive and equitable city**
Not directly applicable.
- (d) A liveable and low carbon city**
Not directly applicable.
- (e) A connected city**
Not directly applicable

Key Policies and Considerations

- (a) Equal Opportunities**
None

- (b) Risk Management**
The Council must ensure that it is fully compliant with the legal requirements set out in RIPA otherwise its use of RIPA may be in breach of the European Convention on Human Rights and the Human Rights Act 1998 and therefore at risk of challenge. This may open up the council to both financial and reputational risk. The Council's RIPA policy sets out how to manage that risk.

(c) Legal Considerations

RIPA provides a legal framework for the Council to use covert methods of surveillance and information gathering to assist in the detection and prevention of crime in relation to an authority's core functions. The legislation ensures that any investigatory activity conducted by the Council is legal, proportionate and necessary.

As the Council has used covert directed surveillance during the period 1 July 2017 and 30 June 2018, the Council has been required to consider the issues of legality, proportionality and necessity.