

STOCKTON-ON-TEES BOROUGH COUNCIL

CABINET RECOMMENDATIONS

PROFORMA

Cabinet Meeting20th May 2010

1. Title of Item/Report

Regulation of Investigatory Powers Legislation

2. Record of the Decision

Members considered a report regarding revisions to the Regulation of Investigatory Powers legislation (RIPA) and codes of practice; summarised the new duties and responsibilities this legislation placed on local authorities, their officers and members; and recommended policies and procedures to satisfy the new duties and responsibilities.

It was explained that following consultation the Home Office had published new RIPA Orders and Codes of Practice and Members were informed of the effects of those Orders and Codes.:-

a) The prescribed officers who could sign authorisations had been revised to "Director, Head of Service, Service Manager or equivalent" (and more senior posts).

b) It was considered good practice for a senior responsible officer (who should be a member of the corporate leadership team) to be made responsible for:-

- the integrity of the process in place within the local authority for the management of CHIS;
- compliance with Part II of RIPA and with the Codes;
- oversight of the reporting of errors to the relevant oversight Commissioner and the identification of both the cause(s) of errors and the implementation of processes to minimise repetition of errors;
- engagement with the Office of the Surveillance Commissioner (OSC) inspectors when they conduct their inspections, where applicable; and
- where necessary, oversight of the implementation of post-inspection action plans approved by the relevant oversight Commissioner.
- ensuring that all authorising officers are of an appropriate standard in light of any recommendations in the inspection reports prepared by the OSC.
- where an inspection report highlights concerns about the standards of authorising officers, the named individual will be responsible for ensuring the concerns are addressed.

c) Councillors in a local authority should review the authority's use of

RIPA and set the policy at least once a year.

d) Councillors in a local authority should also consider internal reports on use of RIPA on at least a quarterly basis to ensure that it is being used consistently with the Council's policy and that the policy remains fit for purpose. They should not, however, be involved in making decisions on specific authorisations.

In response to the new requirements Members were advised of the Council's proposed procedure:-

- All of the Council's Authorising Officers were Directors, Heads of Service, Service Managers or equivalents.
- The Director of Law and Democracy had always been the senior responsible Officer for RIPA, with responsibilities for each of the matters specified in b) above .
- It was proposed that Cabinet received a report at the beginning of each municipal year, in order to set the Council's RIPA policy and review the use of RIPA.
- It was also proposed that information on the use of RIPA was included in the quarterly Finance and Performance reports to Cabinet. This would enable Members to determine if the RIPA powers were being used consistently with the Council's Policy, and that the Policy continued to be fit for purpose.

Cabinet noted that the Council had had a Policy and Procedures document in place since the inception of the RIPA legislation. The current Policy and Procedures was made available to Members for consideration. It was noted that it would need to be reviewed and revised to reflect the new RIPA requirements.

Members noted that a covert surveillance inspection took place on 13 August 2009 and the Inspector commented that the Council's policy document "is a model and the OSC (Office of Surveillance Commissioners) had permission to use it as an example of good practice." The OSC letter enclosing the Inspection report also referred to "the conspicuous care taken by (Stockton Borough Council) officers in relation to certain specific investigations."

Cabinet was provided with RIPA authorisation and application details for 2009/10.

RESOLVED that

- 1) the position regarding the Council's Authorising Officers and the Director of Law and Democracy as the senior officer responsible for RIPA, as outlined above, be affirmed.
- 2) the proposed procedure specified in paragraph 5 of the report regarding the setting of the Council's RIPA policy and the review of the use of RIPA on an annual basis be approved;

- (3) Cabinet receives information on the use of RIPA in the quarterly Finance and Performance reports to Cabinet;
- (4) the current RIPA Policy and Procedures document referred to above and in paragraph 6 of the report be ratified
- (5) the Director of Law and Democracy be authorised to amend the Policy and Procedures document, in consultation with the Cabinet Members for Housing and Community Safety and for Corporate Management and Finance, in order to reflect the new RIPA requirements;
- (6) the RIPA authorisation and application details for 2009/10 included at paragraphs 9 to 11 of, and at Appendix 1 to the report be noted.

3. Reasons for the Decision

- (1) To confirm the Council's current RIPA Authorising Officers and senior responsible officer.
- (2) To agree the procedure for approving the RIPA Policy and Procedures annually.
- (3) To approve the procedure for reporting regularly to Members regarding the use of RIPA.
- (4) To agree the current RIPA Policy and Procedures.
- (5) To authorise the revision of the current Policy and Procedures to reflect the new legislative requirements.
- (6) To receive the details of RIPA authorisations and applications for 2009/10.

4. Alternative Options Considered and Rejected

None

5. Declared (Cabinet Member) Conflicts of Interest

None

6. Details of any Dispensations

Not applicable

7. Date and Time by which Call In must be executed

Not later than Midnight on Friday, 28 May 2010

Proper Officer
24 May 2010