

THE CORPORATE POLICY ON THE USE OF THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

A. Introduction

1. This document sets out Northamptonshire County Council's policy on human rights, the requirements of The Regulation of Investigatory Powers Act 2000 ('RIPA') and the relevant Home Office Codes of Practice made thereunder including those on Covert Surveillance, Covert Human Intelligence Sources and the Acquisition and Disclosure of Communications Data.
2. In carrying out the law enforcement functions of the County Council officers of the County Council may need to use the above methods where it is necessary and proportionate to do so.
3. To ensure easy access, a copy of this document, the guidance and related forms will be accessible on the County Council intranet.

B. Background

1. The Regulation of Investigatory Powers Act 2000 (RIPA) provides for, and regulates the use of, a range of investigative powers, by a variety of public authorities. RIPA is consistent with the Human Rights Act 1998 and creates a system of safeguards, reflecting the requirements of Article 8 of the European Convention on Human Rights (ECHR) which states that any interference by a public authority with the right to respect for a person's private and family life, his home or his correspondence, are carried out in accordance with law. It contains five parts providing for powers in relation to specific investigative techniques or establishing systems of scrutiny, oversight and redress.
2. Part I relates to the interception of communications and the acquisition and disclosure of communications data. Part II relates to the use of covert surveillance, agents, informants and undercover officers. Part III covers the investigation of electronic data protected by encryption. Part IV provides for independent judicial oversight of the powers in the Act. Part V covers miscellaneous and supplemental matters such as consequential amendments, repeals and interpretation.

3. If the correct procedures are not followed, evidence may be disallowed by the courts, a complaint of maladministration could be made to the Ombudsman, and/or the Council could be ordered to pay compensation. Such action would not, of course, promote the good reputation of the County Council and would undoubtedly, be the subject of adverse media coverage. It is essential, therefore, that all NCC services comply with this Policy and any further guidance that may be issued, from time to time, by LGSS Law.

C. Policy

1. Northamptonshire County Council is committed to the principles of equality and social justice in both employment and delivery of services.
2. Being a public authority, Northamptonshire County Council recognises that it has
 - a) a vital role to play in ensuring that the aims of the European Convention on Human Rights and Fundamental Freedoms and the Human Rights Act 1998 are given practical effect;
 - b) a positive obligation to ensure that respect for human rights is at the core of its day to day work ;
 - c) a responsibility to ensure that its decisions and procedures do not infringe human rights; and
 - d) a responsibility to ensure that any decisions which affect human rights are carefully reasoned and recorded.
3. Northamptonshire County Council is committed to ensuring that
 - a) any of its activities, which might interfere with the right to respect for a person's private and family life, his home or his correspondence, are carried out lawfully and, in particular, have regard to RIPA;
 - b) it keeps under review its activities to determine those which fall within the scope of RIPA;
 - c) it has policies, procedures and documentation to ensure that relevant investigatory powers (i.e. relating to the acquisition of communications data, the use of covert surveillance in the course of specific operations and the use of covert human intelligence sources, such as agents, informants and undercover officers) are used in accordance with human rights and the provisions of RIPA and Codes of Practice made under RIPA;

- d) all staff whose activities may involve the use of practices under RIPA are competent to conduct the duties required, have undertaken training in the implementation of the Service policy, the procedures and the documentation relating to this subject;
- e) any officer, who is identified as an authorising officer for the purpose of RIPA, is at an appropriate level and is competent to conduct the duties required; and
- f) a record of all authorisations is maintained and regularly updated whenever an authorisation is granted, renewed or cancelled.
- g) a Senior Responsible Officer is appointed to ensure the integrity of the processes that are in place to ensure compliance with RIPA and the Codes of practice.
- h) this policy is reviewed on an annual basis by elected members.
- i) a quarterly review of the use of RIPA by the County Council is conducted to ensure that the powers are being used consistently in accordance with this policy and that the policy remains fit for purpose.

D Designated Posts

1. The following posts will be designated posts under RIPA. These are the only posts that any authorise the use of Covert Surveillance, Covert Human Intelligence Sources and the Acquisition and Disclosure of Communications Data.
 - Trading Standards Manager – Trading Standards
 - Divisional Manager –Trading Standards (only in the absence of the Trading Standards Manager)

These officers are of the appropriate seniority within the Council required by the legislation - post of Director, Assistant Director, Service Manager or equivalent.

2. The list will be kept up to date by the Senior Responsible Officer (SRO) and added to as needs require. If a Chief Officer wishes to add, delete or substitute a post, s/he must refer such request to the SRO for consideration, as necessary. The SRO is duly authorised to add, delete or substitute a post.
3. Even if a post is identified in the above list the persons currently employed in such posts are not authorised to sign RIPA Forms (including a renewal or cancellation) unless s/he has been authorised by the SRO to do so.

4. Authorisation, when knowledge of confidential information is likely to be acquired or when a vulnerable individual or juvenile is to be used as a source, the authorisation level will be Head of Paid Service or (in his absence) the person acting as Head of Paid Service.

E. The Senior Responsible Officer and Responsibilities

1. The Senior Responsible Officer shall be a member of the Corporate Management Team and be the Director with responsibility for Trading Standards. The Senior Responsible Officer will ensure the integrity of the processes in place in relation to the use of covert human intelligence sources, surveillance and the acquisition and disclosure of communications data within the Authority and monitor compliance with the Act and any relevant codes of practice. They will also liaise with the relevant Inspectors when an inspection is undertaken and oversee the implementation of any post-inspection action plans.
2. Quarterly audit reports (see Section H4 & 5) will be submitted to the Senior Responsible Officer by LGSS Law, in conjunction with Trading Standards.

F. Acquisition and Disclosure of Communications Data

1. Through Trading Standards, the Authority subscribes to the National Anti Fraud Network (“NAFN”) which is a non-profit making National Local Government Organisation. It’s staff are Local Authority employees who are fully accredited and trained to deal with the obtaining of intelligence. Since November 2011, NAFN has acted as the single point of contact for all the County Council’s RIPA access to communications data requests. This is in accordance with recommendations made by the Interception of Communications Commissioner’s Office (“IOCCO”) which is the statutory body that monitors the acquisition and disclosure of communications data. Subscribing to NAFN also means that the Authority is far less likely to be the subject of an inspection by IOCCO as any such inspection would primarily be carried out at NAFN.

G. Training

1. Training will be arranged for:
 - (a) Those officers identified as being likely to carry out activities regulated under RIPA.
 - (b) Those Officers who may be potential users.
 - (c) Applicants.
 - (d) Designated Officers.
 - (e) The Senior Responsible Officer.
 - (f) The Head of Paid Service
 - (g) Councillors undertaking the scrutiny role

2. Training will be provided or arranged by LGSS Law and Trading Standards. A central record of training undertaken will be retained and reviewed by LGSS Law, at least annually.

H. Oversight and Review of the Policy and Internal Reports

1. This Document will be kept under annual review by LGSS Law and Designated Officers must bring any suggestions for continuous improvement of this Document to the attention of LGSS Law at the earliest possible opportunity
2. Elected members will review the Authority's use of RIPA and set policy at least once a year. A report will be presented to elected members by the Senior Responsible Officer.
3. The appropriate Scrutiny Committee will consider, on at least a quarterly basis, internal reports on the use of RIPA so as to ensure that the powers are being used consistently in accordance with the Council's policy and that the policy remains fit for purpose. The reports will be prepared by LGSS Law in conjunction with Trading Standards.
4. LGSS Law will conduct a quarterly audit of compliance, in consultation with Services that make use of Covert Surveillance, Covert Human Intelligence Sources and the Acquisition and Disclosure of Communications Data. The audit will, as far as possible, include an assessment of all equality issues in relation to the practical implementation of the policy.
5. The report will be shared with the Senior Responsible Officer and the appropriate services.
6. LGSS Law will monitor the Central Register of all RIPA authorisations, reviews, renewals, cancellations and rejections and arrange for it to be maintained by Trading Standards.

Date: July 2016

