

<b>REPORT REFERENCE NO.</b>	<b>DSFRA/14/21</b>
<b>MEETING</b>	<b>DEVON &amp; SOMERSET FIRE &amp; RESCUE AUTHORITY</b>
<b>DATE OF MEETING</b>	<b>17 DECEMBER 2014</b>
<b>SUBJECT OF REPORT</b>	<b>REGULATION OF INVESTIGATORY POWERS ACT (RIPA) 2000 – REVISED AUTHORITY POLICY</b>
<b>LEAD OFFICER</b>	<b>Clerk to the Authority</b>
<b>RECOMMENDATIONS</b>	<p>(a) <i>That the Authority RIPA Policy, as appended to this report, be approved;</i></p> <p>(b) <i>That the Terms of Reference of the Authority’s Audit &amp; Performance Review Committee be amended to include the following:</i></p> <p style="text-align: center;"><i>To review, at least annually, the Authority’s RIPA policy and to approve any consequential amendments to the Policy as may be necessary.</i></p>
<b>EXECUTIVE SUMMARY</b>	<p>The Regulation of Investigatory Powers Act 2000 (RIPA) sets out a regulatory framework for the use by specified public authorities (including combined fire and rescue authorities such as the Devon &amp; Somerset Fire &amp; Rescue Authority) of covert investigatory techniques.</p> <p>Irrespective of whether the covert techniques are actually used, individual authorities are nonetheless required to have in place a policy, compliant with existing guidance and codes of practice, governing use and clearly setting out the appropriate procedure for doing so.</p> <p>RIPA itself has recently been subject to legislative change in relation to the authorisation process. These changes do not, however, apply to combined fire and rescue authorities and the Authority policy now appended has been clarified to reference this.</p>
<b>RESOURCE IMPLICATIONS</b>	<p>There is a requirement to ensure:</p> <ul style="list-style-type: none"> <li>• that authorising officers receive appropriate training relevant to this task; and</li> <li>• that sufficient, Service-wide awareness-raising is undertaken to promote understanding of the correct processes to be followed to obtain RIPA authorisation, should this be required.</li> </ul> <p>Costs associated with the above will be met from within existing resources.</p>
<b>EQUALITY RISKS AND BENEFITS ANALYSIS (ERBA)</b>	The contents of this report are considered compatible with current human rights and equalities legislation.

<b>APPENDICES</b>	A. Revised Authority RIPA policy (page numbered separately).
<b>LIST OF BACKGROUND PAPERS</b>	<p>The Investigation of Regulatory Powers Act (RIPA) 2000.</p> <p>The Protection of Freedoms Act 2012</p> <p>The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010</p>

## **1. BACKGROUND**

- 1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) sets out a regulatory framework for the use by specified public authorities (including combined fire and rescue authorities such as the Devon & Somerset Fire & Rescue Authority) of covert investigatory techniques which might otherwise infringe legal rights to privacy and respect for family life. RIPA limits authorities to using three, defined covert techniques. Use of any one of these techniques is subject to prior authorisation by an authorising officer or other designated person.
- 1.2 This Authority has no history of using the covert investigatory techniques covered by RIPA and there is no expectation that there will be a need to use them in the future. Instead, it is anticipated that the Authority will invariably be able to gather all the information required for its statutory functions without covert information gathering.
- 1.3 Nonetheless, the Authority is still required to have in place a policy setting out minimum requirements to be complied with in the unlikely event that it is necessary to use RIPA provisions. The policy is intended to provide protection for the Authority, individual officers using RIPA provisions and those subject to or otherwise affected by the process. The terms of the protection are based on necessity, proportionality and the authorisation given in relation to a particular investigation.

## **2. REVISIONS TO AUTHORITY POLICY**

- 2.1 The Authority policy is intended to:
- ensure that should an unforeseen and exceptional eventuality arise when the use of RIPA is needed there will be a clear procedure for handling its use; and
  - reinforce advice to officers that the use of covert investigatory techniques will be inappropriate in almost all circumstances.
- 2.2 The existing Authority policy references legislative changes to the authorisation process for the use of RIPA, to clarify that these are not applicable to combined fire and rescue authorities. In drafting the revised policy, due regard has been given to codes of practice and guidance published on the website of the Home Office. The policy also stresses that these codes and guidance (and any updated versions) should be referenced when considering any utilisation of RIPA powers.
- 2.3 There are no resource implications associated with this other than:
- to ensure that Authorising Officers under RIPA receive appropriate training; and
  - to raise, Service-wide, awareness of RIPA and specifically the approval processes associated with it.
- 2.4 These training and awareness-raising elements will be met from within existing resources.
- 2.5 The Authority is required to review its approved RIPA policy at least annually, with this review to include anonymised data on the use of RIPA in the relevant preceding twelve months. The Audit & Performance Review Committee is currently responsible, amongst other things, for corporate risk and approving the Authority's Annual Statement of Assurance.

2.6 Going forwards, in light of this and that – as previously indicated – it is not anticipated the Authority will ever use the covert investigatory techniques governed by RIPA – it is suggested that it would be in-keeping, from a proportionality perspective, to delegate annual review and revision of the RIPA policy, as necessary, to the Audit & Performance Committee.

**3. CONCLUSION**

3.1 The revised Authority RIPA policy, as amended to reflect legislative changes to the authorisation process, is now appended to this report and is commended for approval.

3.2 The Authority is also invited to delegate responsibility for the annual review and consequent amendment (as necessary) of the Authority RIPA policy to the Audit & Performance Review Committee and – accordingly - to approve an amendment to the Terms of Reference for this Committee to reflect this.

**MIKE PEARSON**  
**Clerk to the Authority**