

Council Activity in Relation to the Regulation of Investigatory Powers Act 2000 (RIPA)

Summary:	This report provides an update for members on the use by the Council of the Regulation of Investigatory Powers Act 2000 (RIPA).
Options considered:	Update report only
Recommendations:	Members are asked to note the activities undertaken under the Regulation of Investigatory Powers Act 2000 and the outcome of the recent Investigatory Powers Commissioner's Office inspection.
Reasons for Recommendations:	Members are required to be aware of the RIPA activity undertaken by the Council.

Cabinet Member(s)	Ward(s) affected All
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1. Introduction

- 1.1 Members may be aware that the Regulation of Investigatory Powers Act 2000 (RIPA) ("the Act") provides a structure under which certain methods of surveillance are controlled.

Some of these methods are used by local authorities and indeed this Council, for a range of activities, particularly as a part of regulatory and enforcement activity and for the purposes of preventing crime and disorder.

- 1.2 Clearly, there will always be concern about potential intrusion into people's privacy where any surveillance is undertaken and indeed, the Human Rights Act 1998 enshrines this issue in legislation. The Council's Policy in this area seeks to ensure that where surveillance activity is necessary, privacy is protected wherever possible.
- 1.3 The Act requires that the Council publishes a policy and procedures for its activities in this area, which lay out a framework for authorising certain methods of surveillance which may be necessary during activity undertaken by the Council. This requirement is discharged through the Regulation of Investigatory Powers Act 2000 Policy and Procedures document ("the Policy")

- 1.4 The Council is required to keep the Policy under review and is subject to periodic inspection in relation to this and any authorised activity by an external body. It should be noted that the external body has changed since the last update to members from the Office of the Surveillance Commissioners (OSC) to Investigatory Powers Commissioner's Office (IPCO).
- 1.5 IPCO provides independent oversight and authorisation of the use of investigatory powers by intelligence agencies, police forces and other public authorities.
- 1.6 IPCO's purpose is to oversee how these powers are used, taking account of the public interest and ensuring that investigations are conducted in accordance with the law.

2. Use of RIPA Powers by the Council

Since the last update report to members there have been no authorisations issued for the use of either Covert Human Intelligence Sources (CHIS) or Directed Surveillance (DS) activities as there were no applications made during the period.

2.1 Regulation of Investigatory Powers Act 2000 Policy and Procedures

Following an inspection by the OSC in 2017 the Policy was updated to cover all of the points raised during the recent that inspection and to reflect accepted good practice contained in the government guidance and relevant codes of practice.

The Policy contains a number of defined roles against which specific officers were named. A number of staff named in these roles left the Council in late 2019 and early 2020 and, whilst temporary arrangements to retain compliance were put in place, it was identified that further training was required to enable offices fulfilling these roles to be competent. This training was booked for May 2020, however due to Covid19 restrictions it had to be postponed, with subsequent attempts to rebook during the year thwarted by further restrictions or Trainer availability.

This training has now been rebooked for 27th/28th May 2021 both for those new to specific roles and some general refresher training for those officers who need awareness of the regulations.

As part of the package offered by the training firm, they conduct a review of the Policy documentation and identify any areas where the document could be improved to reflect current best practice or any legislative changes. The delay to the delivery of training has also delayed this work, as they are typically delivered at the same time. The Policy will therefore be updated at the end of May 2021.

As the Regulation of Investigatory Powers Act 2000 Policy and Procedures is an Operational Policy outside the Policy Framework, a recommendation for Full Council to approve it is not required. Once a full review of the Policy has been completed a further report will be provided to allow Members to determine that the Council's policy remains fit for purpose.

2.2 Inspection and Recommendations

On 17 February, the Council was the subject of a remote inspection by an IPCO Inspector, Mr Ges Horne, who looked at the use of powers in relation to directed surveillance and CHIS and the Regulation of Investigatory Powers Act 2000 Policy and Procedures document.

The Inspector was satisfied the Council has demonstrated a level of compliance that removed the requirement for a physical inspection with the recommendations made in the January 2018 OSC inspection having been largely discharged and those elements that had not been fully delivered, such as training, had been arranged but delayed by factors outside the control of the Council.

3. The Inspector recommended a small number of minor amendments to the Policy document and these have been incorporated into the Policy already.

IPCO are currently undertaking work on data assurance on the material acquired under RIPA and the Investigatory Powers Act 2016; essentially how this is retained, reviewed and destroyed, by all public authorities. The Council is currently looking at its internal processes to ensure a good level of confidence in these safeguarding practices.

3 Financial Implications and Risks

- 3.1.1 There is a risk of a claim for legal costs and or damages if surveillance is undertaken outside of the protection provided by compliance with the RIPA requirements. The Policy, when followed, should protect the Council against such challenge.

4. Sustainability

There are no sustainability issues arising from this report

5. Equality and Diversity

There are no equality and diversity issues arising, as these are considered automatically, when making decisions regarding the use of RIPA powers.

6. Section 17 Crime and Disorder considerations

The investigation of Crime and Disorder goes to the heart of the cases behind required surveillance activity.

7. Recommendations

Members are asked to note the activities undertaken under the Regulation of Investigatory Powers Act 2000 and the outcome of the recent Investigatory Powers Commissioner's Office inspection.