

ANNUAL REPORT ON THE USE OF RIPA POWERS

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| Head of Service: | Amardip Healy, Chief Legal Officer |
| Wards affected: | (All Wards); |
| Urgent Decision?(yes/no) | no |
| If yes, reason urgent decision required: | |
| Appendices (attached): | none |

Summary

To report on the Council's activities relating to surveillance under the Regulation of Investigatory Powers Act 2000 for 2019.

Recommendation (s)

The Committee is asked to:

- (1) note the annual report of the Council's use of its RIPA powers;**
- (2) note the Council's "Policy & Guidance on Lawful Surveillance" will be brought back to this Committee following the conclusion of the current Inspection by the Investigatory Powers Commissioner's Office.**

1 Reason for Recommendation

- 1.1 This report seeks to inform on the last year's activities and update the Committee on the current Inspection by the Investigatory Powers Commissioner's Office.

2 Background

- 2.1 The Council undertakes a number of functions which involve the enforcement of laws and regulation. On occasion, Officers may need to conduct investigations and, in exceptional circumstances, the Council has the power to make use of covert surveillance and similar activities.

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- 2.2 The Regulation of Investigatory Powers Act 2000 (RIPA) and the Codes of Practice issued under section 71 of that Act, regulates the way in which the Council conducts surveillance for the purposes of law enforcement. The fundamental requirement of RIPA is that when the Council considers undertaking directed surveillance or using a covert human intelligence source it must only do so if:
- a) the activity has been authorised by an officer with appropriate powers, and
 - b) the relevant criteria are satisfied, including authorisation by the Magistrates Court.
- 2.3 All RIPA surveillance which the Council wishes to authorise must be approved by an Authorising Officer and also be approved by a Magistrate. Where a Local Authority wishes to seek to carry out a directed surveillance or make use of a human intelligence source the Council must apply to a single Justice of the Peace. The Home Office issued guidance to Local Authorities and to Magistrates on the approval process for RIPA authorisations.

Inspections

- 2.4 The Investigatory Powers Commissioner's Office has responsibility to oversee the exercise of the use by Councils of their surveillance powers.
- 2.5 Following a desktop review by the Surveillance Commissioner in 2017 (as it was known then), a number of recommendations were made. They included updates to the Council's RIPA Policy. The recommendations were incorporated into an amended policy and approved by Strategy & Resources Committee on the 17th April 2018.
- 2.6 Following a review of the law and good practice, no changes were felt necessary to the Policy in 2019.
- 2.7 The Council's use of surveillance powers is currently being inspected by the Investigatory Powers Commissioner's Office. As a result, a review of the current policy will be delayed until the outcome of the current inspection is known.

Use of Powers 2019

- 2.8 There were no applications for directed surveillance authorisations in 2019. The last time the powers were used was in 2018, in connection with a waste offence, to identify subscriber information from a mobile telephone number.

3 Risk Assessment

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Legal or other duties

3.1 Impact Assessment

3.1.1 Use of investigatory powers potentially engages the Human Rights Act 1998 and in particular the qualified right to private and family life under article 8 of the European Convention. This right may only be interfered with in circumstances where it is necessary and proportionate to do so in pursuit of the public interest. The Council's RIPA Policy & Guidance document is designed to facilitate compliance with the Human Rights Act.

3.2 Crime & Disorder

3.2.1 It is important to ensure regulatory investigative procedures are kept up to date and once the current Inspection is completed any recommendations will be included as part of the review.

3.3 Safeguarding

3.3.1 None arising from the contents of this report.

3.4 Dependencies

3.4.1 None

3.5 Other

3.5.1 None

4 Financial Implications

4.1 None arising from the contents of this report.

4.2 **Section 151 Officer's comments:** None for the purposes of this report.

5 Legal Implications

5.1 None arising from the contents of this report.

5.2 **Monitoring Officer's comments:** none arising from the contents of this report.

6 Policies, Plans & Partnerships

6.1 **Council's Key Priorities:** The following Key Priorities are engaged: not applicable for the purposes of this report.

6.2 **Service Plans:** The matter is not included within the current Service Delivery Plan.

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6.3 **Climate & Environmental Impact of recommendations:** not applicable for the purposes of this report.

6.4 **Sustainability Policy & Community Safety Implications:** The RIPA Policy is part of the Council's regulatory toolkit. An annual review of the Policy helps to maintain public confidence in the Council's position on community safety.

6.5 **Partnerships:** Not applicable for the purposes of this report.

7 Background papers

7.1 The documents referred to in compiling this report are as follows:

Previous reports:

- Annual report Audit, Crime & Disorder and Scrutiny Committee, 25 June 2019.

Other papers:

- Policy & Guidance on Lawful Surveillance, 2018.