

REGULATION OF INVESTIGATORY POWERS ACT (2000) ANNUAL REPORT

Head of Service:	Andrew Bircher, Assistant Director of Corporate Services
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Wards affected:	(All Wards);
Appendices (attached):	Appendix 1 - Policy & Guidance on Lawful Surveillance - Regulation of Investigatory Powers Act 2000

Summary

To report on the Council's activities relating to surveillance under the Regulation of Investigatory Powers Act 2000 (RIPA) for 2024.

Recommendation (s)

The Committee is asked to:

- (1) Note the annual report of the Council's use of its RIPA powers in 2024; and**
- (2) Ask the Assistant Director of Corporate Services to bring this report to the attention of the Chair of the Community Safety Partnership and the Chair of the Crime and Disorder Committee for information.**

1 Reason for Recommendation

- 1.1 This is the required annual report to provide details of any surveillance carried out by the Council under RIPA powers. For 2024 there were no such surveillance activities carried out.

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
- 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.

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- 2.3 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:
- 2.3.1 a) the activity has been authorised by an Officer with appropriate powers, and
 - 2.3.2 b) the relevant criteria are satisfied, including authorisation by the Magistrates Court.
- 2.4 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.

3 Inspections

- 3.1 The Council is inspected by the IPCO every three years to ensure its compliance with RIPA and the Investigatory Powers Act 2016. The latest inspection concluded on the 10th June 2024 upon receipt of the Investigatory Powers Commissioner's final inspection letter.
- 3.2 Following a review of how IPCO conducts its oversight of local authorities, they no longer routinely undertake physical / remote inspections, as has previously been the case. Instead, the Investigatory Powers Commissioner agreed that each local authority should provide a written update, in the first instance, on its compliance with the legislation.
- 3.3 Following the receipt of the Council's written update and engagement with the IPCO Inspector, the Commissioner is satisfied that the Council's reply provides its assurance that ongoing compliance with RIPA 2000 and the Investigatory Powers Act 2016 will be maintained. As such, the Council did not require further inspection this year
- 3.4 The Commissioner highlighted three areas where the Council can enhance its RIPA Policy.

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- 3.4.1 Review of paragraph 46 of the RIPA Policy in relation to social media investigations, and in particular the phrase - "Where privacy settings are available but have not been used, authorisation is not usually required to access and use that data in an investigation." Paragraph 3.13 and 3.14 of the CHIS Code of Practice 2018 has some guidance, "in some circumstances privacy implications still apply. This is because the intention when making such information available was not for it to be used for a covert purpose such as investigative activity. This is regardless of whether a user of a website or social media platform has sought to protect such information by restricting its access by activating privacy settings". The RIPA policy does continue to provide some good explanation at Annex 3.
- 3.4.2 The RIPA Policy has a few references to the OSC (Office of Surveillance Commissioners) which is now defunct and replaced by IPCO.
- 3.4.3 The addition of a section in the RIPA Policy about Records and Product Management, with regard to any material generated from an authorisation.

3.5 An updated policy is provided with this report.

4 Use of Powers

4.1 There were no applications for directed surveillance authorisations in 2024.

5 Risk Assessment

Legal or other duties

5.1 Equality Impact Assessment

5.1.1 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.

5.2 Crime & Disorder

5.2.1 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

5.3 Safeguarding

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5.3.1 No issues arise from this report

5.4 Dependencies

5.4.1 none

5.5 Other

5.5.1 none

6 Financial Implications

6.1 No direct implications

6.2 **Section 151 Officer's comments:** None arising from the contents of this report.

7 Legal Implications

7.1 **Legal Officer's comments:** None arising from the contents of this report

8 Policies, Plans & Partnerships

8.1 **Council's Key Priorities:** The following Key Priorities are engaged:

- This report is linked to the council's priority for Safe and Well

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

8.3 **Climate & Environmental Impact of recommendations:** None.

8.4 **Sustainability Policy & Community Safety Implications:** The subject could be related to community safety, but no powers have been deployed

8.5 **Partnerships:** None.

9 Background papers

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

Previous reports:

- None.

Other papers:

- None.