

AUDIT & GOVERNANCE COMMITTEE

26 OCTOBER 2017

REPORT OF THE SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

REGULATION OF INVESTIGATORY POWERS ACT 2000

Purpose

To receive the Office of Surveillance Commissioner (OSC) inspection report in relation to the RIPA policy, procedures, documentation and training.

The Council's Code of Practice for carrying out surveillance under the Regulation of Investigatory Powers Act 2000 (RIPA) specifies that quarterly reports will be taken to Audit & Governance Committee to demonstrate to elected members that the Council is complying with its own Code of Practice when using RIPA.

Recommendation

That Audit and Governance Committee

- 1. endorse the recommendations of the OSC**
- 2. refer the findings of the report and changes to the RIPA policy to Council for ratification and**
- 3. endorse the RIPA monitoring report for the quarter to 30 September 2017.**

Executive Summary

In July 2017 the Office of the Surveillance Commissioner (OSC) conducted an inspection into the RIPA policy, procedures, documentation and training utilised at the Council. It is recommended that the outcome of the inspection be reported to Council on 12 December 2017 for ratification. The Commissioner reported that the recommendations arising from the previous inspection have been implemented and accepted by the Council. RIPA awareness had been raised throughout the Council, the risk of "status drift" and those posed by usage of social media and amendment to the Procedure and Guidance document. The policy was updated in line with the recommendations of the Commissioner and has since been updated further

on two occasions as a result of changes to legislation and the Codes of Practice published by the Home Office. Training took place in January 2015 and there has been further training events in the past week for officers who previously had no RIPA training and for members with refresher training being delivered for those officers previously trained. The training focused on the use of internet and social media sites to carry out research on persons and the association arising therefrom with surveillance. Training will continue to be delivered through Netconsent. The feedback from the training has been positive and going forward training for RIPA has been added to the Corporate Training Programme.

The Commissioner has recommended from the current inspection that

- guidance regarding use of internet and social networking sites (SNS) for research of persons and how this might meet the requirement as directed surveillance or covert human intelligence sources (CHIS) should be drawn up and actively disseminated to staff.

The amended RIPA policy incorporating the Commissioners recommendation is attached for consideration by the Committee and thereafter referral to Council for ratification on 12 December 2017. The revised policy will be published, a questionnaire shall be issued through Netconsent for all staff and a communication containing guidance will be sent to all staff regarding use of internet and social media sites. The practice that quarterly reports on the use of RIPA powers be submitted to Audit & Governance Committee will continue.

Options Considered

Obligations arising under RIPA for the authority are statutory therefore there the only option is compliance.

Resource Implications

Support for the RIPA obligations and functions are met from existing budget and existing staff resources.

Legal/Statutory and Risk Implications

The recording of applications, authorisations, renewals and cancellations of investigations using covert surveillance techniques or involving the acquisition of communications data is covered by the Regulation of Investigatory Powers Act 2000.

The Regulation of Investigatory Powers Act was introduced to regulate existing surveillance and investigation in order to meet the requirements of

Article 8 of the Human Rights Act. Article 8 states: Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

RIPA investigations can only be authorised by a local authority where it is investigating criminal offences which (1) attract a maximum custodial sentence of six months or more or (2) relate to the sale of alcohol or tobacco products to children.

There are no risk management or Health and Safety implications.

Sustainability Implications

The legislation requires the Authority to record and monitor all RIPA applications, keep the records up to date and report quarterly to a relevant Committee.

Background Information

The RIPA Code of Practice produced by the Home Office in April 2010 and updated in January 2016 introduced the requirement to produce quarterly reports to elected members to demonstrate that the Council is using its RIPA powers appropriately and complying with its own Code of Practice when carrying out covert surveillance. This requirement relates to the use of directed surveillance and covert human intelligence sources (CHIS).

The table below shows the Council's use of directed surveillance in the current financial year to provide an indication of the level of use of covert surveillance at the Council. There have been no applications under RIPA in the period from 1 July 2017 to 30 September 2017.

The table outlines the number of times RIPA has been used for directed surveillance, the month of use, the service authorising the surveillance and a general description of the reasons for the surveillance. Where an investigation is ongoing at the end of a quarterly period it will not be reported until the authorisation has been cancelled. At the end of the current quarterly period there are no outstanding authorisations.

There have been no authorisations for the use of CHIS.

Financial year 2017/18

Month	Service	Reason
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No applications

Background papers

Regulation of Investigatory Powers Act 2000
Home Office Codes of Practice – Covert Surveillance and Covert Human
Intelligence Sources

Appendices

Appendix 1 - OSC Inspection report dated 25 July 2017
Appendix 2 - Draft RIPA policy as amended

*“If Members would like further information or clarification prior to the meeting
please contact Jane M Hackett Solicitor to the Council and Monitoring Officer on Ext.258”*