

## AUDIT & GOVERNANCE COMMITTEE

08 FEBRUARY 2018

### REPORT OF THE SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

#### REGULATION OF INVESTIGATORY POWERS ACT 2000

##### **Purpose**

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 endorse the RIPA monitoring report for the quarter to 31 December 2017.**

##### **Executive Summary**

The Council has a number of statutory functions that involve officers investigating the conduct of others with a view to bringing legal action against them. The Council has also been given powers under the Regulation of Investigatory Powers Act 2000 (RIPA) which enable it to carry out Directed Surveillance in certain strict circumstances. RIPA provides a legal framework for the control and regulation of surveillance and information gathering techniques which public bodies such as Tamworth Borough Council have to comply with. These powers have been amended and changed in accordance with various pieces of legislation. The last change resulted in a revised RIPA Policy being approved by the Council on 12 December 2017.

The Protection of Freedoms Act 2012 now requires that local authority authorisations under RIPA for Directed Surveillance or CHIS can only become effective on the granting of an order approving the authorisation by a Justice of the Peace. Further a local authority can now only have an authorisation under RIPA for the use of Directed Surveillance where the local authority is investigating criminal offences which attract a maximum custodial sentence of six months or more or criminal offences relating to the underage sale of alcohol or tobacco under the Licensing Act 2003 or the Children and Families Act 2014.

No Directed Surveillance has been carried out by the Council since 2011 and it is not envisaged that there will be any appreciable change in the foreseeable future. By adhering to Policy the Council ensure that the acquisition and disclosure of data is lawful, necessary and proportionate so that the Council will not be held to be in breach of Article 8 (the right to respect for private family life, home and correspondence ) of the European Convention on Human Rights.

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. Arising from the inspection it has been recommended that guidance regarding use of internet and SNS for research of persons and how this might meet the requirement as directed surveillance or CHIS should be drawn up, inserted into our policy and procedures and actively disseminated to staff.

Training took place in October 2017 for officers who previously had no RIPA training and for members with refresher training being delivered for those officers previously trained. Further training will be arranged 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 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 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 October 2017 to 31 December 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 and 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**

<b>Month</b>	<b>Service</b>	<b>Reason</b>
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No applications

### **Background papers**

None

*"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"*

