

AUDIT & GOVERNANCE COMMITTEE
23 JULY 2020
REPORT OF THE ASSISTANT DIRECTOR – PARTNERSHIPS
REGULATION OF INVESTIGATORY POWERS ACT 2000

Purpose

To consider updates to the Council's Regulation of Investigatory Powers Act 2020 Policy, receive update on any activity to 30 June 2020 and move to annual reports on the usage of those powers

Recommendation

That Audit and Governance Committee:-

- Approve annual reporting of the use of RIPA powers (as outlined in IPCO guidance) and review the RIPA policy during the first meeting of the Committee in each financial year
- Endorse updates to the Council's RIPA Policy to include Social Media Policy
- Endorse the RIPA monitoring report for the quarter to 30 June 2020

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 with subsequent minor revisions.

RIPA Policy

A recent review of the constitution provides confirmation of authority that as RIPA is part of the ToR for the Audit and Governance Committee who are able to oversee policy updates.

A full review of the policy has been undertaken as part of the recommended annual review to include confirmation or Senior Responsible Officer, update on a social media policy and removal of inclusion of the acquisition of Communications Data.

The Policy will be re-circulated to staff with the Social Media Policy sent separately to teams identified who may investigate relevant offences.

It is proposed that the annual review of the policy will be an annual agenda item for the first Committee meeting in each financial year.

RIPA Monitoring Report

Until March 2020 the practice that quarterly reports on the use of RIPA powers has been submitted to Audit & Governance Committee. In light of the IPCO guidance, it is proposed that this practice will continue for verbal update annually unless applications have been made. These will be fully recorded and reported on in line with the legislation.

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.

The table below 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.

Financial year 2020/2021

No applications to 30 June 2020

There have been no authorisations for the use of CHIS

At the end of the current quarterly period there were no outstanding authorisations

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 his private and family life, home and 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 as a minimum annually to the relevant Committee.

Background Information

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.

The RIPA Code of Practice produced by the Home Office in April 2010 and updated in January 2016 introduced the requirement to produce at a minimum annual 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).

Appendices

Appendix 1 – Tamworth Borough Council RIPA Policy

Background papers

None

If Members would like further information or clarification prior to the meeting please contact Jo Sands, Assistant Director - Partnerships on Ext.585