

AUDIT & GOVERNANCE COMMITTEE
9 JUNE 2021
REPORT OF THE ASSISTANT DIRECTOR – PARTNERSHIPS
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 annual 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 2020/21 circulated for information.

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.

Following the review of the constitution in 2020, any policy updates are now approved by the Audit and Governance Committee where identified. The annual review by the Senior Responsible Officer, the Assistant Director Partnerships, has not identified any material changes at this time.

At the Audit and Governance Committee on 23 July 2020 it was further agreed that, in accordance with guidance, annual reports on the use of RIPA powers be submitted to Audit & Governance Committee for verbal update unless applications have been made during any Council year requiring a separate report.

No Directed Surveillance has been carried out by the Council during 2020/21 and there have been no authorisations for the use of Covert Human Intelligence Sources.

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.

Options Considered

Obligations arising under RIPA for the authority are statutory and therefore 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 quarterly to a 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 of the Children and Families Act 2014.

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).

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