

THE REGULATION OF INVESTIGATORY POWERS ACT 2000

1. INTRODUCTION

- 1.1 The purpose of this report is to provide the Audit Committee with a summary of the Council's use of its powers under the Regulation of Investigatory Powers Act 2000 (RIPA).
- 1.2 RIPA provides a statutory framework whereby certain surveillance and information gathering activities can be authorised and conducted by the Council in a lawful manner where they are carried out for the prevention and detection of crime and, in some cases, for the prevention of disorder.
- 1.3 The Council has two policies ('the policies') relating to its use of RIPA:
 - 1.3.1 Surveillance Policy – updated January 2019 (**Appendix 1**)
 - 1.3.2 Policy for the Acquisition of Communications Data – updated January 2019 (**Appendix 2**)
- 1.4 Previously, the policies provided that the Audit Committee would be updated every two years on the Council's use of RIPA, unless the powers had been used during that time, in which case the Committee would be updated at their next meeting. However, following feedback from the Investigatory Powers Commissioner's Office, who carried out an inspection of the Council's policies, training and use of RIPA in December 2018, the policies was amended to provide for annual reporting. Therefore, the Legal Services Manager is required to report to the Audit Committee annually on the Council's use of RIPA.

2. BACKGROUND

- 2.1 When the Human Rights Act 1998 came into force in 2000 it made the fundamental rights and freedoms contained in the European Convention on Human Rights (ECHR) enforceable in the UK.
- 2.2 Article 8 of the ECHR provides that individuals have the right to respect for private and family life and Article 6 of the ECHR provides that individuals have the right to a fair trial.
- 2.3 The use of covert surveillance techniques is considered to be an interference with this Article 8 right and therefore RIPA provides a framework to render lawful surveillance activities which might otherwise be in breach of the ECHR. It is also aimed at ensuring that evidence obtained against a person to be used in criminal proceedings is obtained in a fair manner.
- 2.4 RIPA regulates three surveillance techniques available to local authorities, namely:
 - 2.4.1 Directed surveillance - covert surveillance which is carried out as part of a specific investigation and is likely to involve the obtaining of private information about the person under investigation;

- 2.4.2 Covert Human Intelligence Sources (CHIS) – use of a person who establishes and maintains a relationship with the person under investigation in order to obtain and disclose information; and
 - 2.4.3 The acquisition and disclosure of communications data - obtaining information from communication service providers (e.g. the postal service, telephone companies and internet companies) about the use made of a service (e.g. itemised billing, internet connections or records of registered post) and user information (e.g. subscriber names, addresses or other customer information).
- 2.5 RIPA provides that the above activities may be authorised by local authorities but must be necessary and proportionate.

3. THE COUNCIL'S USE OF RIPA

- 3.1 The Council uses its powers under RIPA infrequently.
- 3.2 The Council did not authorise any surveillance activities under RIPA since the last report to the Audit Committee in January 2019.

4 TRAINING

- 4.1 50 employees with responsibilities related to RIPA were trained by Legal Services during the course of January/ February 2019.
- 4.2 In accordance with the policies further training will take place in 2022. However, where a RIPA investigation is contemplated, the relevant officers are required to contact Legal Services in advance so an update training session can be provided.

5 INVESTIGATORY POWERS COMMISSIONER INSPECTION

- 5.1 The Investigatory Powers Commissioner's Office (IPCO) provides independent oversight of the use of investigatory powers by public authorities and the Council was subject to a remote assessment in December 2018.
- 5.2 On 20 December 2018, Mr Graham Horne, Inspector at the IPCO confirmed that the questionnaire submitted "demonstrates a level of compliance that removed the need for a physical inspection." Some minor amendments were suggested to the Council's policies. These amendments have been incorporated into the policies.
- 5.3 The next inspection will be due in 2021.

6. ENVIRONMENTAL IMPLICATIONS

- 6.1 There are no environmental implications arising from this report.

7. CRIME AND DISORDER IMPLICATIONS

- 7.1 The Council's use of RIPA relates to the prevention and detection of crime and, in some cases, the prevention of disorder. It is essential the Council complies with RIPA if covert surveillance techniques are used in order to prevent legal challenge and ensure that evidence obtained is admissible in criminal proceedings. As stated above, the Council rarely uses its powers under RIPA.

8. CONCLUSION

- 8.1 RIPA provides the Council with a statutory framework to follow so that it may carry out various covert investigatory activities in a lawful manner.
- 8.2 The Council uses its powers under RIPA infrequently, but when use is made of such powers it is essential that this is done in accordance with the law and the Council's policies.

9. RECOMMENDATION

It is recommended that:-

- 9.1 Members note the use made by the Council of its powers under RIPA; and
- 9.2 Members endorse the policies.

Further Information

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Background Papers

Published documents