

## **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 adopted two policies relating to its use of RIPA:
  - 1.3.1 Surveillance Policy - Last updated November 2015
  - 1.3.2 Policy for the Acquisition of Communications Data - Last updated October 2015
- 1.4 In accordance with these policies the RIPA Monitoring Officer 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 in 2015.

### **4. INSPECTION BY THE OFFICE OF SURVEILLANCE COMMISSIONERS**

4.1 On 15 October 2015 Sir David Clarke, Assistant Surveillance Commissioner, visited the Council to undertake an inspection of the Council's use and management of its powers under RIPA. In his subsequent report, Sir David commented that the Council's Surveillance Policy is "clear, readable and practical, giving good guidance to investigators and authorising officers". He was pleased to note that the Council provides annual training to investigating and authorising officers, despite the Council's very sparing use of its powers under RIPA, commenting, "The maintenance of regular update and refresher training is the best example of good practice." In conclusion the Assistant Surveillance Commissioner stated that, "NFDC's RIPA structure remains in rude good health, ready for use if and when the need arises."

### **5. ENVIRONMENTAL IMPLICATIONS**

5.1 There are no environmental implications arising from this report.

### **6. CRIME AND DISORDER IMPLICATIONS**

6.1 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.

### **7. CONCLUSION**

7.1 RIPA provides the Council with a statutory framework to follow so that it may carry out various covert investigatory activities in a lawful manner.

7.2 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.

## **8. RECOMMENDATION**

It is recommended that:-

8.1 Members note the use made by the Council of its powers under RIPA.

### **Further Information**

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### **Background Papers**

- Published documents