

Committee: Standards & General Purposes Committee

Date: 23 July 2020

Wards: All

Subject: Regulation of Investigatory Powers Act Authorisations

Lead officer: Louise Round, Managing Director, South London Legal Partnership

Lead member: Councillor Mark Allison

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Recommendations:

- A. That members note the purposes for which investigations have been authorised under the Regulation of Investigatory Powers Act (RIPA) 2000.
 - B. That members note the outcome of the inspection by the Investigatory Powers Commissioner's Office (IPCO).
 - C. That members agree the revised RIPA policy.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. To inform members about investigations authorised since September 2019 under RIPA.

2 DETAILS

- 2.1. 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. These functions include investigating anti-social behaviour, fly tipping, noise nuisance control, planning (contraventions), benefit fraud, contraventions of trading standards, licensing and food safety legislation.
- 2.2. Whilst the majority of investigations are carried out openly, some investigations must be carried out using covert surveillance techniques or involve the acquisition of communications data. Communications data is information about the times of calls or internet use and the location and identity of the callers, but not the content of the calls or details of the websites viewed.
- 2.3. RIPA regulates the authorisation and monitoring of these investigations to safeguard the public from unwarranted intrusion of privacy.
- 2.4. With effect from 1 November 2012, the Protection of Freedoms Act 2012 requires local authorities to obtain the approval of a magistrate for the use of covert surveillance.
- 2.5. In line with the revised Code of Practice, reports detailing the use of RIPA are submitted to Standards and General Purposes Committee on a regular basis.

- 2.6. Since September 2019, there has been one repeat request for directed surveillance of a business. Unfortunately, due to technical issues with the surveillance equipment, there were delays with this request, which meant that it did not proceed and the required surveillance activity has not been undertaken.
- 2.7. Since September 2019, there have been no requests for CCTV footage for RIPA investigations.
- 2.8. No RIPA authorisations have been rejected by the Magistrates Court.
- 2.9. Since September 2019, no applications have been made for the acquisition of communications data.
- 2.10. Future reports will include data on Non-RIPA activity.

Inspection

- 2.11. IPCO undertook their three yearly inspection of the council's on 15 January 2020 to assess the council's levels of compliance with RIPA in respect of its use and management of covert surveillance and covert human intelligence sources (CHIS), and communications data under the Investigatory Powers Act 2016.
- 2.12. The inspection consisted of:
- An introduction with the Louise Round, Managing Director, South London Legal Partnership (Senior Responsible Officer) and Karin Lane, Head of Information Governance (RIPA co-ordinator) to outline the council's process and structure; the progress on previous recommendations; and the examination of documents of all RIPA authorisations since the last inspection.
 - A focus group with Authorising Officers John Hillarby, Trading Standards Manager and Margaret Culleton, Head of Internal Audit to discuss any challenges and talk about recent and relevant issues across similar organisations.
 - Feedback to the Senior Responsible Officer and RIPA coordinator.
- 2.13. Statistics relating to the records reviewed during the inspection are below.

| | Total authorisations in current reporting period | Total authorisations in previous reporting period | Total records viewed at Inspection |
|-----------------------|--|---|------------------------------------|
| Directed Surveillance | 3 | 18 | 3 |
| CHIS | 0 | 0 | 0 |

- 2.14. Merton Council was last inspected in February 2016 and four recommendations were made. Those recommendations and the status of their implementation are set out below:

- R1: That Merton's RIPA Policy and Procedure document be revised – Discharged as the recommendation is superseded by a new recommendation;
- R2: That future cancellations comply with paragraph 109 of OSC Procedures & Guidance (repeat recommendation). Discharged;
- R3: That the SRO review the RIPA training needs of RIPA authorising officers and arrange the necessary training, a composite record of those attending being maintained – Discharged as training requirements are again the subject of a new recommendation;
- R4: That Merton keep under review the question of carrying out juvenile test purchase operations under RIPA authorisation, as recommended in OSC Procedures and Guidance and in the BRDO Code of Practice. Discharged.

2.15. The recommendations from this inspection were:

- R1: That we should revise our current RIPA Policy to incorporate recent legislative changes. Completed, see Appendix A.
 - It was noted that the South West London Fraud Partnership be recognised within the policy revision and any activity within our boundaries is included on our central register.
- R2: The SRO should consider implementing a process to monitor current applications. This would ensure an element of quality assurance and timeous reviews, renewals and cancellations. Completed.
- R3: The SRO should ensure that those involved in the application, use, management and authorisation of RIPA should receive the appropriate training. A plan should also be considered which would raise the awareness of RIPA across the organisation. Currently in development.
 - It was noted that use of social media should become a focus of a renewed training and awareness package.
 - It was also noted that the council needs to increase the number of Authorising Officers.

3 ALTERNATIVE OPTIONS

3.1. The report is for information only.

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1. No consultation has been undertaken regarding this report.

5 TIMETABLE

5.1. N/A.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1. None.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. All investigation using covert surveillance techniques or involving the acquisition of communications data is in line with the Regulation of Investigatory Powers Act 2000.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. RIPA was introduced to regulate existing surveillance and investigations in order that they meet the requirements of Article 8 of the Human Rights Act. Article 8 states:

1) Everyone has the right for his private and family life, his home and his correspondence.

(2) There shall be no interference by a public authority with the exercise of this right except such as is 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.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. RIPA investigations are authorised for the prevention or detection of crime or the prevention of disorder.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. None.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- 11.1. RIPA Policy.

12 BACKGROUND PAPERS

- 12.1. None.