

Committee: Standards & General Purposes Committee

Date: 5 March 2024

Wards: All

Subject: Regulation of Investigatory Powers Act 2000 & Investigatory Powers Act 2016

Update on Authorisations and Approval of revised RIPA Policy

Lead officer: John Scarborough, Monitoring Officer

Lead member: Councillor Martin Whelton

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Recommendations:

A. That Members note that no investigations have involved authorisations under the Regulation of Investigatory Powers Act 2000 (RIPA) since the last report.

B. That members review and approve the revised RIPA Policy.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

1.1 To update Members about authorisations since 10 March 2022 and to seek approval of the revised RIPA Policy.

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, blue badge enforcement, planning enforcement, fraud, contraventions of trading standards, licensing and food safety legislation.

2.2. Whilst the majority of investigations can effectively be carried out openly, some investigations require the use of covert surveillance techniques or involve the acquisition of communications data in order to secure evidence of unlawful activity to enable enforcement action to be taken, where appropriate. Communications data is information about the times of calls or internet use and the location and identity of the users, 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. Since 1 November 2012, when the provisions of the Protection of Freedoms Act 2012 came into force, amending the Regulation of Investigatory Powers Act 2000 (RIPA), local authorities have been required to obtain the judicial approval from 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 the Committee on a regular basis.
- 2.6. Since 10 March 2022 no authorisations for directed surveillance have been made for the purposes of preventing or detecting crime.
- 2.7. Since 10 March 2022 no authorisations have been made for the use of CCTV footage for RIPA investigations.
- 2.8. Accordingly, no RIPA authorisations have been resubmitted to the Magistrates Court for judicial approval.
- 2.9. Since 10 March 2022 no applications have been made for the acquisition of communications data.

3 APPROVAL OF RIPA POLICY

- 3.1 The council's RIPA Policy was last revised and put to the Committee for approval on 23 July 2020. The Policy will in future be subject to annual review and submitted to the Committee for approval.
- 3.2 The RIPA Policy (see Appendix) has been revised in format and style for ease of presentation and clarity, but the only substantive amendments relate to changes introduced by Sections 37 to 44 of the Police, Crime, Sentencing and Courts Act 2022..
- 3.3 The Committee is asked to review and approve the Revised Policy.

4 ALTERNATIVE OPTIONS

- 4.1. The report is for information only.

5 CONSULTATION UNDERTAKEN OR PROPOSED

- 5.1. No consultation has been undertaken regarding this report.

6 TIMETABLE

- 6.1. N/A.

7 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 7.1. None.

8 LEGAL AND STATUTORY IMPLICATIONS

- 8.1 RIPA was introduced to ensure that covert surveillance undertaken by public authorities is undertaken in accordance with the European Convention on Human Rights and the Human Rights Act 1998. The RIPA framework establishes a lawful process to use covert surveillance and thereby protects the Council from legal claims, providing it has been complied with.

9 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 9.1. 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.
- 9.2 Under section 149 of the Equality Act 2010, the council has a duty when exercising its functions to have 'due regard' to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act and advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. This is the public sector equality duty.
- 9.3 The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 9.4 Due regard is the regard that is appropriate in all the circumstances.
- 9.5 There are no equalities implications arising from this report.

10 CRIME AND DISORDER IMPLICATIONS

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

11 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 11.1. None.

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

- 12.1. RIPA Policy.

13 BACKGROUND PAPERS

- 13.1. None.

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