



STANDARDS COMMITTEE REPORT

Report Title	Regulation of Investigatory Powers Act 2000 – Policy and Inspection
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AGENDA STATUS: PUBLIC

Committee Meeting Date:	21 st December 2015
Policy Document:	No
Directorate:	Borough Secretary and Monitoring Officer

1. Purpose

- 1.1 The purpose of the report is to update Members of the Committee following the inspection carried out by the Office of Surveillance Commissioners to review the policies and procedures that the Council has in place to comply with the Regulation of Investigatory Powers Act 2000 (RIPA) and review how the Council uses its powers under the Act.

2. Recommendations

- 2.2 To note the content of the report.

3. Issues and Choices

3.1 Report Background and Issues

- 3.1.1 Local authorities are required to respect the private and family life of citizens, their homes and correspondence in accordance with the Human Rights Act 1998. This right is qualified where interference is necessary and proportionate and carried out in accordance with the law.
- 3.1.2 RIPA contains powers for various bodies to carry out covert surveillance. Certain covert surveillance powers under RIPA are available to local authorities and can be used in appropriate circumstances in accordance with the requirements of the Act to support the delivery of their functions.
- 3.1.3 The Office of Surveillance Commissioners oversees the use of covert surveillance powers under RIPA by local authorities.

- 3.1.4 The Council has a RIPA Policy in place, which can be viewed on the internet and intranet. The Policy covers the use of directed surveillance and the use of covert human intelligence sources by the Council.
- 3.1.5 Directed surveillance is surveillance that is covert, is conducted for the purposes of a specific investigation or operation, is likely to result in the obtaining of private information about a person and is conducted otherwise than by way of an immediate response to events. In summary a person is a covert human intelligence source if they establish or maintain a personal or other relationship and they covertly use the relationship to obtain information or provide access to any information to another person, or they covertly disclose information obtained through that relationship or as a consequence of the existence of that relationship. While the Council's RIPA Policy clearly states that the use of covert human intelligence sources has not been identified as an investigative technique applied by the Council, the policy still covers the processes that would need to be applied if a situation ever arose in the future where the Council did use a covert human intelligence source.
- 3.1.6 The Council's use of RIPA powers is minimal. Since the Office of Surveillance Commissioners' inspection of the Council's policies and use of RIPA powers in May 2012, the Council has only authorised one use of RIPA powers (which was to enable officers to carry out directed surveillance). If there are lawful means other than using covert surveillance to obtain the required information, then those other means would be used by the Council.
- 3.1.7 Inspections are carried out approximately once every three years. On 1st December 2015, the Office of Surveillance Commissioners carried out its most recent RIPA inspection. The Inspector, HH Brian Barker will report formally on his conclusions in due course. However, in the course of the inspection, the Inspector made some preliminary comments, which can be reported to Members. These comments are summarised below:

a) Elected Members of the Council should review the Council's use of RIPA and be involved in the formulation of the Policy.

While the main functions of the Standards Committee are related to ethics and probity, it also has a wider governance function and is responsible for any matters that the Monitoring Officer refers to it for consideration. Therefore, it is appropriate for the Standards Committee to be engaged in the review of the Council's use of RIPA. It is expected that other Members will be engaged through reports to Full Council and Cabinet as appropriate.

b) The Policy should be amended to include the names and contact details of the Council's 'Authorising Officers', to ensure that operational officers know who to approach if they consider that a RIPA authorisation may be required. The Council should have at least two Authorising Officers.

Only specific officers within the Council are able to authorise the use of RIPA powers. (The use of RIPA powers must also be judicially approved

following approval by an Authorising Officer). Such officers have to be of a sufficient level of seniority, as defined by statute and must also be appointed internally as Authorising Officers. There has been a significant amount of organisational change in the Council in recent years, following the outsourcing of environmental services, the transfer of support services to Local Government Shared Services and the transfer of housing management functions into an Arms Length Management Organisation. This has led to changes in the Council's Officer structure and has reduced the number of Authorising Officers. In due course, the Council will need to consider the training and appointment of new Authorising Officers, who should be listed in the Policy.

- c) A summary of the processes for seeking RIPA authorisations to be included early on in the Policy together with flow charts illustrating the processes.**

Both the Council's RIPA Policy and the Home Office Codes of Practice on use of directed surveillance and covert human intelligence sources are detailed. It would assist operational officers seeking RIPA authorisations if there were process summaries and flow charts at the start of the Policy.

- d) Include a comment in the Policy about online covert activity/social media and the potential RIPA implications. A note could be included on the intranet highlighting this.**

There is a possibility that internet research to gather information for an operation, (for example looking at postings on social media), could cross over into being covert surveillance, and may amount to directed surveillance, depending on the activities being carried out. It is important that operational officers are aware of the human rights implications of this type of activity, and are aware of when the need may arise to consider a RIPA authorisation. The Home Office Code of Practice on Directed Surveillance covers online covert activity.

3.3 Choices (Options)

- 3.3.1 Members are asked to note the content of the report.

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 This report does not have any direct implications on Policy. Policy implications are set out in the body of this report.

4.2 Resources and Risk

- 4.2.1 This report does not have any direct resource implications.

4.3 Legal

4.3.1 The legal framework is outlined in the body of the report.

4.4 Equality

4.4.1 There are no direct equality and diversity implications arising from this report.

4.5 Consultees (Internal and External)

4.5.1 Not applicable.

4.6 Other Implications

4.6.1 None

5. Background Papers

5.1 None.

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