



Annual review of the Regulation of Investigatory Powers Act 2000 (RIPA)

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Purpose of the Report

1. The Council must have arrangements in place to ensure compliance with the Regulation of Investigatory Powers Act 2000 ("RIPA") and those arrangements are subject to inspection by the Investigatory Powers Commissioners' Office ("IPCO"). Compliance is achieved through the adoption of a policy and a set of procedures that adhere to the requirements of the legislation. The Council has had arrangements and procedures in place for authorising and conducting necessary surveillance since 2002. Members should review the policy and the use of RIPA at least once per year. They should also consider internal reports on use of RIPA periodically to ensure it is being used consistently with the policy and that the policy remains fit for purpose.

Forward Plan

2. This report did not appear on the Forward Plan as, given the absence of any RIPA authorisations since the last consideration by District Executive in January 2018, it was intended that updates would be provided via the Councillor Bulletin. However, at our most recent inspection the Inspector indicated that the Policy and any authorisations need to be reviewed by elected members at least once a year.

Public Interest

3. The Council has a Policy and set of procedures for authorising and conducting surveillance linked to the Council's enforcement powers. These Policy and procedures need to be reviewed and approved by the District Executive annually.

Recommendations

4. That members note the Council's use of RIPA powers and amendments to the Policy and Procedures.

Background

5. RIPA provides a statutory mechanism to make sure that the way investigatory powers are used by organisations such as local councils and government departments



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complies with human rights law, in particular the European Convention on Human Rights.

6. As mentioned above, the Council must have arrangements in place to ensure compliance and it is subject to inspection by the IPCO.
7. RIPA was introduced in order to provide the correct balance between an individual's right to privacy under human rights law and the proper use of data and surveillance by public authorities, who are entrusted to carry out certain enforcement duties. RIPA identifies certain areas where carrying out these enforcement duties will inevitably conflict with an individual's rights to privacy. The main areas which are of concern to the Council are:
 - The use of directed surveillance ; and
 - The use of covert human intelligence sources (CHIS).

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8. Some of the Council's activities necessarily require surveillance as part of enforcement activity, for example in relation to benefit fraud, environmental health & protection, planning, licensing and fraud generally. However, the use of RIPA powers by the Council has been very limited (see **Appendix 1**). This summary shows there have only been two authorisations sought since 2008, which reflects the fact that the Council will generally use overt methods of investigation to obtain the necessary evidence that can be relied upon in a case, and that RIPA powers are used very much as a "last resort".
9. The Policy and Procedure was before this committee in January 2018, following an inspection which made some changes to the original policy. The Council has been subject to a further inspection which took place in September of this year.
10. The Inspector commented that the Policy was "well written and accurate, requiring little alteration".
11. The Inspector reiterated the need for members to receive both annual and regular RIPA covert surveillance reports to ensure they are kept aware of the level of RIPA activity/inactivity within the Council. Following his recommendations, some changes have been made to the Social Media Policy which appears at Appendix 5 of the Policy and Procedure. This is to ensure individuals investigating cases and using social networking websites know when they could be straying into RIPA territory and when a RIPA authority needs to be sought, and to ensure that evidence gained from the use of this type of evidence gathering is logged and retained correctly.
12. There is a need to keep officers up to date with RIPA, and training has recently been provided. The Portal will also be used to raise awareness of RIPA, and can be the mechanism by which officers and members are notified of any new Codes of Practice (including those published in August 2018). The Code of Practice for Covert



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Surveillance and Property Interference was updated to reflect changes introduced by the Investigatory Powers Act 2016, including the introduction of 'equipment interference warrants' under Part 5 of the 2016 Act. The current Code and the new Code for Covert Human Intelligence Sources (CHIS) both reflect the new oversight framework.

Financial Implications

13. There may be a requirement for training additional officers in RIPA, the cost of which would have to be met from existing training budgets.

Legal implications (if any) and details of Statutory Powers

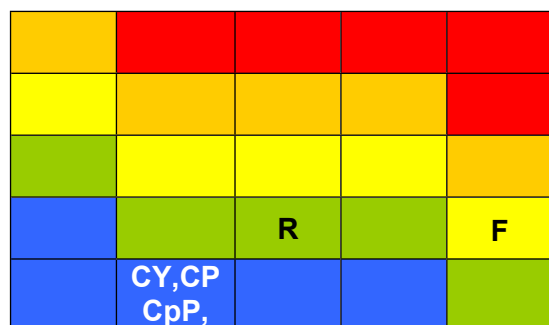
14. As set out in the report above. Surveillance investigations which are not authorised could leave the Council open to legal challenge by individuals who consider that there has been an intrusion of their privacy

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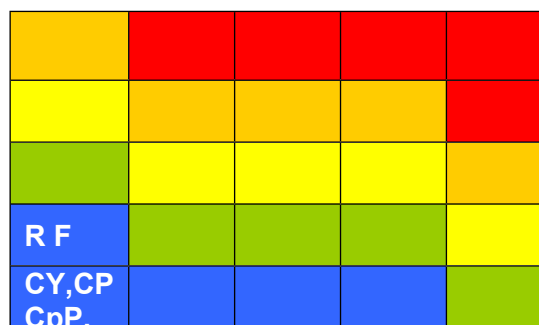
Risk Matrix

The risk matrix shows risk relating to the Corporate Plan headings.

Risk Profile before officer recommendations



Risk Profile after officer recommendations



Key

Categories	Colours (for further detail please refer to Risk management strategy)
R - Reputation	High impact and high probability
CpP - Corporate Plan Priorities	Major impact and major probability
CP - Community Priorities	Moderate impact and moderate probability
CY - Capacity	Minor impact and minor probability
F - Financial	Insignificant impact and insignificant probability



Council Plan Implications

15. Protections Core Services

By complying with RIPA we are continuing to be a modern efficient and effective Council that delivers for its community by;

- Delivering a high quality, effective and timely service to our customers and communities.
- Harnessing intelligence to ensure priorities are informed by evidence.

Carbon Emissions and Climate Change Implications

16. There are no carbon emissions and climate change implications associated with this report.

Equality and Diversity Implications

17. There are no equality and diversity implications associated with this report

Privacy Impact Assessment

18. No direct privacy impacts arise from the decision members are being asked to take under this report. Personal data is highly likely to be involved when RIPA activity is undertaken and the Council's RIPA Policy and Procedures provide guidance to officers about the collection, use and storage of such data.

Background Papers

- RIPA Policy and Procedure
- Social Media Policy for RIPA - Appendix 5 to the Policy and Procedure
- Appendix 1 – report of RIPA authorities