

Audit Committee – 26 September 2016

Regulation of Investigatory Powers Act (RIPA) 2000

Summary of report:

This report is:

- to advise the Audit Committee of the outcome of the inspection by the Office of the Surveillance Commissioner (OSC) which took place on 9 June 2016 and note the Council's response,
- to provide the Audit Committee with a summary of surveillance activities undertaken by the council under the Regulation of Investigatory Powers Act (RIPA) 2000 for the year ending 31 March 2016 and
- to provide the Audit Committee with the opportunity to review the Corporate RIPA Policy and Procedures to ensure it is current; provides the required guidance to officers and ensures the Authority is compliant with the legal framework.

Background papers:

Regulation of Investigatory Powers Act (RIPA) 2000 activity records.

Recommendations:

1. To note the outcome of the inspection by the Office of the Surveillance Commissioner (OSC) which took place on 9 June 2016 and note the Council's response,
2. Note the Council's use of the Regulation of Investigatory Powers Act (RIPA) 2000 for the year ending 31 March 2016 and seek assurance from the Executive Director (Economy and Environment) as the Council's Senior Responsible Officer for RIPA, that usage is consistent with the Council's policy and procedures.
3. Review the amended Corporate RIPA Policy and Procedure to ensure it is current; provides the required guidance to officers and ensures the Authority is compliant with the legal framework.

Simon Neilson – Executive Director (Economy & Environment)

16 September 2016

Background

Where there is an interference by a local authority with the right to respect for private and family life guaranteed under Article 8 of the European Convention on Human Rights and where there is no other source of lawful authority, the consequence of not obtaining an authorisation under the 2000 Act may be that the action is unlawful by virtue of section 6 of the Human Rights Act 1998.

The Home Office has strongly recommended that local authorities seek an authorisation where the surveillance is likely to interfere with a person's Article 8 rights to privacy by obtaining private information about that person, whether or not that person is the subject of the investigation or operation. Obtaining an authorisation ensures that the action is carried out in accordance with law and subject to stringent safeguards against abuse.

Directed surveillance authorisations under Part II of the Regulation of Investigatory Powers Act (RIPA) 2000 may be granted in relation to covert surveillance undertaken in relation to a specific investigation or operation which is likely to result in the obtaining of private information about a person, and which is other than an immediate response to events or circumstances.

Regulation of Investigatory Powers Act (RIPA) 2000 Annual Statistics 1 April 2015 - 31 March 2016

The table at **Appendix 1** includes the general purpose or reason for which RIPA authority was granted and the number of authorities granted for each purpose or reason for the period. It is not possible to give further details as this may breach confidentiality legislation, interfere with the proper investigation of potential offenders or disclose other operational information which could hinder past, current or future activities, investigatory techniques or investigations.

Audit Committee is requested to seek assurance from the Executive Director (Economy and Environment) as the council's Senior Responsible Officer for RIPA that usage is consistent with the council's policy and procedures.

Reporting of Surveillance Activity to Audit Committee

Audit Committee has in the past received regular, quarterly where possible, summaries of surveillance activities undertaken by the council under the Regulation of Investigatory Powers Act (RIPA) 2000, in accordance with recommended practice which states:

“.... elected members of a local authority should review the authority's use of the 2000 Act and set the policy at least once a year. They should also consider internal reports on use of the 2000 Act on at least a quarterly basis to ensure that it is being used consistently with the local authority's policy and that the policy remains fit for purpose. They should not, however, be involved in making decisions on specific authorisations”.

The OSC carried out the triennial inspection of the Authority and its use of RIPA on 9 June 2016. The inspection report is attached as Appendix 2 and the Authority's response as Appendix 3.

The inspection report confirmed that the Assistant Surveillance Commissioner was satisfied that a sound structure had been maintained and commended the arrangements for continued training. He noted that the recommendations from the previous inspection, of 23 May 2013, had been implemented.

There are recommendations contained in the OSC inspection report for amendments to the corporate RIPA procedure to reflect changes in trading practices, particularly in

relation to the use by businesses of social media. In addition, organisational changes in the past year were identified which needed to be reflected in the Corporate RIPA procedure. The revised procedure is attached as Appendix 4.

Resource and legal considerations:

Material obtained through covert surveillance may be used as evidence in criminal proceedings. The proper authorisation of surveillance should ensure the admissibility of such evidence under the common law, S78 of the Police and Criminal Evidence Act 1984 and the Human Rights Act 1998.

Citizen impact:

Audit Committee's receipt of information relating to RIPA surveillance and ability to seek assurance from the Senior Responsible Officer provides an assurance to stakeholders about the security of the council's operations.

Performance and risk management issues:

This report provides another layer of monitoring of the use of the Regulation of Investigatory Powers Act (RIPA) 2000 and therefore accountability of the officers is heightened.

Equality Implications:

None arising from this report.

Consultation:

Advice has been sought as necessary from the Council's legal services and internal audit section.



Simon Neilson – Executive Director (Economy & Environment)

16 September 2016

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Regulation of Investigatory Powers Act (RIPA) 2000
Annual comparators 1 April 2010 – 31 March 2015

	1 April 2010 – 31 March 2011	1 April 2011 – 31 March 2012	1 April 2012 – 31 March 2013	1 April 2013 – 31 March 2014	1 April 2014 – 31 March 2015	1 April 2015 – 31 March 2016
Housing benefit and / or council tax benefit investigation	16	16	4	0	0	0
Anti social behaviour enforcement	23	31	9	0	0	0
Trading standards – age restricted test purchasing (knives, cigarettes, alcohol, fireworks), taxis plying for hire, counterfeit goods, fly tipping, litter enforcement	15	19	18	8	5	3
Miscellaneous – staff working privately while absent on sick leave; insurance claims from injured parties	1	1	0	0	0	0
Total	55	67	31	8	5	3