



GOVERNANCE COMMITTEE

Subject Heading:	Regulation of Investigatory Powers Act 2000 (RIPA) Update
SLT Lead:	
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Policy context:	Governance
Financial summary:	None

The subject matter of this report deals with the following Council Objectives

Communities making Havering	<input type="checkbox"/>
Places making Havering	<input type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

SUMMARY

This is the Committee's Annual Regulation of Investigatory Powers Act 2000 (RIPA) update. Members are asked to consider and, recommend for approval, changes to the Council's Policy and Procedures on RIPA. Members are also asked to note the revised delegation proposals and that there has been no use of the Council's RIPA powers since the last update.

RECOMMENDATIONS

That members:

1. Recommend to the Lead Member that the proposed changes to the Council's Policy and Procedures on RIPA attached as **Appendix 1** be approved.
2. Note the revised delegation proposals.
3. Note the update on the Council's use of its RIPA powers.

REPORT DETAIL

A Changes to the Policy

1. Appended to this report as **Appendix 1** is the Council's Policy and Procedures on RIPA. The document explains the Council's use of 'covert surveillance techniques' when investigating serious criminal offences when relying on the powers made available to local authorities in Part II of RIPA. As the use of covert surveillance will affect an individual's privacy rights, compliance with RIPA ensures that the surveillance is necessary, proportionate and lawful. RIPA therefore protects the Council from legal claims and complaints and ensures that the evidence it relies upon in prosecutions is admissible.
2. 'Covert surveillance techniques' include static surveillance (e.g. taking up an observer post to monitor the activities and movements of those suspected of having committed criminal offences); mobile surveillance (e.g. following someone to see where they are going without their knowledge) and using hidden CCTV at a crime hotspot. It also extends to the use of undercover officers and informants.
3. The Policy also refers to accessing communications data, such as out-going phone calls and websites visited, held by telephone and internet service providers. However, only limited information about who sent the communication, when and how can be accessed but not the content i.e. what was said or written. This form of surveillance is regulated by a different part of RIPA and different procedures apply i.e. authorisations are granted by a national body which acts on behalf of local authorities.
4. As well as legislation, the Council's policies and procedures are guided by statutory codes of practice most recently re-issued by the Home Office in August 2018. The changes to the statutory codes of practice were technical in nature, focusing on procedural matters such as good information management.

The recent focus of the Code of Practice on the use of the internet and social media as a surveillance tool is already properly covered in the Council's Policy.

5. The use of RIPA powers by local authorities is tightly controlled. Initially, directed surveillance or the use of a CHIS has to be assessed in detail and authorised in writing internally by a senior officer only if necessary and proportionate. Subsequently, it has to be approved by a justice of the peace before the authorisation takes effect.
6. The Council is required to have policies and procedures in place and these, together with the Council's use of the powers in practice, is the subject of periodic inspection by the Investigatory Powers Commissioner's Office (IPCO). The IPCO replaced the Office of Surveillance Commissioners (OSC) which most recently inspected the Council in December 2016.
7. The Inspector was very positive about the conduct and knowledge of the officers interviewed and approved of the Council's policy and procedures. A small number of recommendations were made to improve the Council's procedures which were considered by this Committee last year.
8. More recently, a further detailed review of the Policy has been undertaken and the proposed minor changes are marked up in the appended Policy and procedure. The changes are mainly technical or presentational in nature and, more specifically:
 - refer to and reflect recent legislative changes and the revised statutory codes of practice;
 - refer to the IPCO (instead of the OSC);
 - elaborate on what RIPA does and does not do;
 - emphasise the enhanced safeguards and authorisation levels required when confidential information may be acquired;
 - designate the Council's Monitoring Officer as the Senior Responsible Officer (SRO) reflecting established practical arrangements; and
 - states that the SRO will report to the Leader, Lead Member and oneSource Management at least once a year (and not quarterly) to reflect the much reduced and very limited use by the Council of its RIPA powers.
9. Members are asked to recommend that these procedural changes be made by the Lead Member. Members are also asked to note that the Monitoring Officer will be seeking the delegated authority to make technical and minor changes to the Policy from time to time to ensure that it is quickly updated whenever changes are made to the law or the codes of practice. Lead Member approval will also be sought for the Monitoring Officer to be able to amend the Council's list of Authorising Officers as part of her oversight and quality control role as SRO and in response to service and staffing changes.

B Update on Council activity regarding RIPA

10. In common with most other local authorities, the use by the Council of its RIPA powers is much reduced and is very limited. In fact, since the Committee's previous review in June 2017, there have no applications for the use of directed surveillance or a CHIS.
11. Staff are kept aware of the requirements of RIPA, and advised of the need to secure legal compliance and to follow the Council's Policy and Procedures. The opportunity is also taken to report changes in the law, disseminate examples of good practice and to raise awareness about specific risks. For example, training for key staff was provided in January 2017 and further training was provided in March of this year. Officers will also be advised of the changes set out in this report and the information published on the Council's intranet will be updated too.

IMPLICATIONS AND RISKS

Financial implications and risks:

None in relation to this report

Legal implications and risks:

Included within this Committee's terms of reference is the responsibility to review the Council's use of RIPA and the Council's Policy and Procedures at least once a year and to make recommendations for changes. This gives effect to the statutory Codes of Practice most recently re-issued by the Home Office in August 2018.

Human Resources implications and risks:

None

Equalities implications and risks:

This annual update and the proposed changes to the Council's RIPA Policy and Procedures do not have any adverse impacts on persons sharing a protected characteristic for the purposes of the public sector equality duty set out in Section 149 of the Equality Act 2010.

Background Papers

None