

GOVERNANCE COMMITTEE

Subject Heading:	Regulation of Investigatory Powers Act 2000 (RIPA) Update
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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 note that there has been no use of the Council's RIPA powers since the last update.

RECOMMENDATIONS

That Members:

1. Note the update on the Council's use of its RIPA powers.

REPORT DETAIL

A Background

1. Last year's update on the Council's use of its RIPA powers was reported to the Committee on 9 January 2019 and explained the proposed changes to the Council's Policy and Procedures on RIPA (which is set out at **Appendix 1**).
2. Members are reminded that RIPA regulates the use of covert surveillance activities 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.
3. Covert surveillance activities 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.
4. In addition, local authorities have powers to access 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 principally regulated by the Investigatory Powers Act 2016 and different procedures apply. For example, local authorities must submit all their communications data applications via the National Anti-Fraud Network (NAFN) for quality assurance checks prior to consideration by the Office for Communications Data Authorisations (OCDA).
5. 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.
6. 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.

7. 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) which replaced the Office of Surveillance Commissioners (OSC).
8. The OSC most recently inspected the Council in December 2016 and IPCO have advised the Council that its next routine inspection will take in July 2020.
9. Following the Council's detailed review of its Policy and Procedures on RIPA and subsequent changes, no further changes are proposed ahead of its next inspection.

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 review last year, there have been no applications for the use of directed surveillance or a CHIS. Nor have any applications been made to access communications data.
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, short guides on RIPA and the do's and don'ts of on-line surveillance were issued last year as well as technical guidance to managers.
12. Finally, in addition to staff training provided in January 2017 and March 2018, further training was provided in September 2019.

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 does not have any adverse impacts on persons sharing a protected characteristic for the purposes of the public sector equality duty as set out in section 149 of the Equality Act 2010.

Background Papers

None