

Audit Committee

29 January 2023



Title	Update on the use of the Regulation of Investigatory Powers Act Policy (RIPA policy)
Purpose of the report	To inform the Audit Committee regarding the Council's use of Directed Surveillance and Covert Human Intelligence Sources for the years 2020 to 2023.
Report Author	Farida Hussain, Monitoring Officer
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	Not applicable
Corporate Priority	The use of surveillance powers supports all the Council's corporate priorities
Recommendations	Committee is asked to: Note the approved RIPA Policy and use of RIPA powers during the period 1 January 2020 to 31 December 2023.
Reason for Recommendation	To ensure transparency in respect of the Council's use of its powers under RIPA.

1. Summary of the report

- 1.1 RIPA regulates surveillance carried out by public authorities in the conduct of their business, specifically the monitoring, recording and interception of communications and the use of directed covert surveillance. The Council is required to have a policy in place to demonstrate how these powers are utilised.
- 1.2 The RIPA Policy was approved by Corporate Policy and Resources Committee on 27 November 2023. The Committee resolved to adopt the RIPA Policy and delegate to the Group Head Corporate Governance to keep the Policy under regular review and update the Audit Committee on any updates to the Policy and use of the power thereunder.
- 1.3 It is good practice for members to have oversight of use of RIPA powers and accordingly this report is being presented to the Audit Committee to provide that oversight.

2. Key issues

- 2.1 The Regulation of Investigatory Powers Act (RIPA) came into force in 2000. The Act allowed:
- Councils to carry out covert surveillance of alleged offenders and to instruct individuals to form relationships with the intention of obtaining information for the prevention and detection of crime.
 - Compliance with RIPA ensures that the surveillance actions taken by the Council are acceptable interference of qualified rights within the Human Rights Act 1998, in particular the right to privacy and the right to a fair trial, when gathering evidence in preparing cases for Court.
- 2.2 The Investigatory Powers Commissioner's Office (IPCO) carries out scheduled audits of the use of RIPA by Local Authorities to monitor quality of applications and compliance with the Codes.
- 2.3 In addition, all authorisations for surveillance activities carried out by the Council under RIPA must be independently reviewed and approved by a Magistrates' Court.
- 2.4 IPCO carried out a review of the Council in relation to surveillance activities in 2020. The Inspector recommended that members should be updated on the use of RIPA powers. Going forward a report will be taken to the Audit Committee on an annual basis to provide the update.
- 2.5 By law, elected members are not permitted to be involved in any individual application/authorisation, however paragraph 3.46 of the Covert Human Intelligence Sources Revised Code 2022 ('the Code') states that: " Elected members of a local authority should review the authority's use of Part II 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 a regular basis to ensure that it is being used consistently with the local authority's policy and that the policy remains fit for purpose."
- 2.6 Annual statistics on use of RIPA powers are reported to IPCO.
- 2.7 The Council's RIPA Policy and related documents can be found on the intranet.

3. Options analysis and proposal

- 3.1 In accordance with the Code, the Committee is required to note the use of the RIPA powers as set out in the table below:-

Year	Activity authorised	Nature of investigation	Total no. of authorisations in that year
2020	1. Directed Surveillance Phase 1 2. Directed Surveillance Phase 2	Fraud – Housing Benefit and Single Occupancy discount Outcome – Prosecution ongoing	2 – relating to same investigation

2021	1. Directed Surveillance	Fraud – Housing Benefit, Council Tax Benefit/Reduction Support Outcome – Investigation ongoing	1
2022	N/A	N/A	0
2023	1. Directed Surveillance 2. Directed Surveillance	Fraud – Housing Benefit, Council Tax Benefit/Reduction Support Outcome – Investigation ongoing Joint investigation with DWP – relating to benefit and housing fraud Outcome – Investigation ongoing	2

4. Financial implications

4.1 Not applicable.

5. Risk considerations

5.1 Whilst the Council's use of RIPA powers is relatively low, the Council must ensure that it complies with the requirements of RIPA and the associated Codes of Practice. Failure to have the appropriate policies and procedures in place may lead to the Council not meeting its statutory obligations, exceeding its powers, and placing it at risk of complaints.

6. Procurement considerations

6.1 Not applicable.

7. Legal considerations

7.1 The legal considerations are covered in the main body of the report.

8. Other considerations

8.1 There are none.

9. Equality and Diversity

9.1 The RIPA Policy is accessible by all.

10. Sustainability/Climate Change Implications

10.1 There are none.

11. Timetable for implementation

The next update on the RIPA Policy to the Audit Committee will be in January 2025.

12. Contact

12.1 Farida Hussain f.hussain@spelthorne.gov.uk.

Background papers: There are none.

Appendices:

Appendix A – Updated RIPA Policy