
Summary Sheet

Council Report

Audit Committee – 27 November, 2018

Title

Update Report on the Use of Surveillance and Acquisition of Communications Data Powers

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

Judith Badger, Strategic Director of Resources and Customer Services

Report Author(s)

Dermot Pearson, Assistant Director Legal Services

Ward(s) Affected

All

Executive Summary

This is a report to update the Audit Committee in its oversight role on the Council's use of surveillance and acquisition of communication data powers under the Regulation of Investigatory Powers Act 2000 (RIPA).

Recommendations

That the Audit Committee:

1. Notes that the Council has not made use of surveillance or acquisition of communication data powers under RIPA so far during 2018.
2. Agrees to receive a further report on the implications of the Home Office's Revised Codes of Practice on covert surveillance and interference with property and on covert human intelligence sources.

List of Appendices

None

Background Papers

Revised Code of Practice - Covert Surveillance and Property Interference [Home Office, 2018]

Revised Code of Practice - Covert Human Intelligence Sources [Home Office, 2018]

<https://www.gov.uk/government/publications/covert-surveillance-and-covert-human-intelligence-sources-codes-of-practice>

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None

Council Approval Required

No

Exempt from the Press and Public

No

Title

Update Report on the Use of Surveillance and Acquisition of Communications Data Powers

1. Recommendations

1.1 That the Audit Committee:

- 1.1.1 Notes that the Council has not made use of surveillance or acquisition of communication data powers under RIPA so far during 2018.
- 1.1.2 Agrees to receive a further report on the implications of the Home Office's revised Codes of Practice on covert surveillance and interference with property and on covert human intelligence sources.

2. Background

- 2.1 The Regulation of Investigatory Powers Act 2000 (RIPA) provides a mechanism to make it lawful for public bodies such as local authorities, to use directed (i.e. covert) surveillance and covert human intelligence sources e.g. undercover officers and public informants, for the purposes of the detection and prevention of crime. Any use of those powers has to be proportionate and necessary both in use and scope. The Council has a RIPA Policy that governs the use of those powers.
- 2.2 RIPA also provides a mechanism for public bodies such as local authorities to acquire communications data where it is proportionate and necessary to do so for the purposes of the detection and prevention of crime. The Council has a separate Acquisition and Disclosure of Communication Data Policy to cover this activity. Typically this activity might include acquiring mobile phone subscriber details and details of itemised calls but not the content of calls.
- 2.3 The Council's corporate policies in this regard make provision for the Audit Committee to oversee the operation of these policies by receiving reports on a 6 monthly basis to ensure that RIPA powers are being used in a manner consistent with the policy. This is the latest update report.

3. Key Issues

- 3.1 So far during 2018 the Council has not used its powers under RIPA to use directed (i.e. covert) surveillance, covert human intelligence sources, e.g. undercover officers and informants, or to acquire communications data.
- 3.2 The revised Home Office Codes of Practice advise that the elected members of a local authority should:
 - 3.2.1 Review the authority's use of RIPA and set the policy at least once a year; and

- 3.2.2 Consider internal reports on use of RIPA 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.
- 3.3 The RIPA Policy and the Acquisition and Disclosure of Communications Data Policy were reviewed by this Committee at its meeting on 19 June 2018 and were re-adopted with minor amendments. The publication of the Revised Codes of Practice for Covert Surveillance and Property Interference and for Covert Human Intelligence Sources will require the RIPA policy to be reviewed before the next scheduled annual review in June 2019 and it is recommended that a further report be brought to the next meeting of the Committee.
- 4. Other considerations and recommended proposal**
- 4.1 The recommendations in this report are to note that the Council has not used its RIPA powers so far during 2018 and to agree to receive a further report on the implications of the Revised Codes of Practice.
- 5. Consultation**
- 5.1 The Home Office carried out a 6 week consultation on the Revised Codes of Practice.
- 6. Timetable and Accountability for Implementing this Decision**
- 6.1 It is proposed that a further report be brought to the next meeting of the Committee on the implications of the Revised Codes of Practice.
- 7. Financial and Procurement Implications**
- 7.1 There are no financial and procurement implications.
- 8. Legal Implications**
- 8.1 Legal Implications are considered in the main body of this report.
- 9. Human Resources Implications**
- 9.1 There are no human resources implications.
- 10. Implications for Children and Young People and Vulnerable Adults**
- 10.1 There are no direct implications for children and young people and vulnerable adults.
- 11. Equalities and Human Rights Implications**
- 11.1 Adherence to the Council's policies and the statutory guidance in relation to the use of RIPA and the Acquisition of Communication Data powers should ensure that the any actions taken are in accordance with human rights.
- 12. Implications for Partners and Other Directorates**
- 12.1 There are no direct implications for partners or other directorates.
- 13. Risks and Mitigation**
- 13.1 As above at paragraph 3.2 the statutory guidance requires oversight by elected members on the use of RIPA powers and to ensure policies remain fit for

purpose. A failure to follow this guidance would increase the risk of misuse of RIPA powers and intervention by the Investigatory Powers Commissioner.

14. Accountable Officer(s)

Dermot Pearson, Assistant Director of Legal Services.

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