

**Committee Name and Date of Committee Meeting**

Audit Committee - 26 September 2019

**Report Title**

Update Report on the Use of Surveillance and Acquisition of Community 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, Finance and Customer Services

**Report Author(s)**

Bal Nahal, Head of Legal Services  
01709 823661 - [bal.nahal@rotherham.gov.uk](mailto:bal.nahal@rotherham.gov.uk)

**Ward(s) Affected**

Borough-Wide

**Report 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 since it was last reported on 27<sup>th</sup> November, 2018.
2. Agrees to receive updated reports annually along with a review (updates/ amendments) to the Council's RIPA Policy.

**List of Appendices Included**

Copy of the Annual Statistics Return 2018

**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

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

### **1. Background**

- 1.1 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. The Policy was updated on 29th January, 2019.
- 1.2 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.
- 1.3 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; however, as the Council has not used the powers for the last two years it is appropriate to reduce reporting to annually.

### **2. Key Issues**

- 2.1 So far, since the last report, 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. A statistical return was completed and sent to the Investigatory Powers Commissioners Office on the 29 March 2019.
- 2.2 The revised Home Office Codes of Practice advise that the elected members of a local authority should:
  - 2.2.1 Review the authority's use of RIPA and set the policy at least once a year; and
  - 2.2.2 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.
- 2.3 The RIPA Policy was reviewed by this Committee at its meeting on 29<sup>th</sup> January, 2019, 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 again by January 2020, and the use of the powers to be reported in future at that meeting.

### **3. Options considered and recommended proposal**

3.1 The recommendations in this report are to note that the Council has not used its RIPA powers since the last report.

### **4. Consultation on Proposal**

4.1 The Home Office carried out a 6 week consultation on the Revised Codes of Practice.

### **5. Timetable and Accountability for Implementing this Decision**

5.1 None.

### **6. Financial and Procurement Advice and Implications**

6.1 There are no Financial and Procurement implications.

### **7. Legal Advice and Implications**

7.1 Legal implications are considered in the main body of this report.

### **8. Human Resources Advice and Implications**

8.1 There are no Human Resources implications.

### **9. Implications for Children and Young People and Vulnerable Adults**

9.1 There are no direct implications for children and young people and vulnerable adults.

### **10. Equalities and Human Rights Advice and Implications**

10.1 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.

### **11. Implications for Partners**

11.1 There are no direct implications for partners or other directorates.

### **12. Risks and Mitigation**

12.1 As above at paragraph 2.2 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.

### **13. Accountable Officer(s)**

Bal Nahal, Head of Legal Services

*Report Author:* Bal Nahal, Head of Legal Services  
01709 823661 - [bal.nahal@rotherham.gov.uk](mailto:bal.nahal@rotherham.gov.uk)

This report is published on the Council's [website](#).