

**Committee Name and Date of Committee Meeting**

Audit Committee – 30 July 2024

**Report Title**

Update Report on the Use of Surveillance

**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)**

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**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 under the Regulation of Investigatory Powers Act 2000 (RIPA) and the Investigatory Powers Act 2016 (IPA).

**Recommendations**

That the Audit Committee:

1. Notes that the Council has not made use of surveillance or acquisition of communication data powers under the relevant legislation since it was last reported on the 25<sup>th</sup> January 2023.
2. Adopts the RIPA Policy with minor amendments in respect of personnel.

**List of Appendices Included**

Copy of the Annual Statistics Return 2023  
Copy of the RIPA Policy 2024

## **Background Papers**

Revised Code of Practice - Covert Surveillance and Property Interference [Home Office, 2022]

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

Revised Code of Practice - Covert Human Intelligence Sources [Home Office, 2022]

<https://www.gov.uk/government/publications/covert-human-intelligence-sources-code-of-practice-2022>

Code of Practice – Communications Data

<https://www.gov.uk/government/publications/investigatory-powers-act-2016-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 and approved by the Committee on 27<sup>th</sup> July 2023.
- 1.2 The Investigatory Powers Act 2016 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 a legally prescribed purpose. Typically, this activity might include acquiring mobile phone subscriber details and details of itemised calls, but not the content of calls. The Council does not currently use the powers under the legislation.
- 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 12 monthly basis to ensure that RIPA powers are being used in a manner consistent with the Policy. Due to the Council not having used the powers available, it was deemed appropriate for reporting to take place 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 7<sup>th</sup> December 2023.
- 2.2 External training was provided to all officers involved or likely to be involved in the use of the powers provided under the RIPA legislation on the 13<sup>th</sup> and 14<sup>th</sup> June 2023. To ensure that this training is up to date and new staff joining are aware of their roles further training sessions have been arranged to take place on the 12<sup>th</sup> and 26<sup>th</sup> June 2024. The purpose of this will be to further reduce any potential risk arising from any unauthorised activity.
- 2.4 The revised Home Office Codes of Practice advise that the elected members of a local authority should:
  - 2.4.1 Review the authority's use of RIPA and set the policy at least once a year; and

2.4.2 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.

2.5 The RIPA Policy was reviewed by this Committee at its meeting on 27<sup>th</sup> July 2023 and was re-adopted with some minor changes to personnel and references to the revised Codes of Practice. The RIPA Policy has been reviewed and as there have been no changes to guidance or Codes of Practice the Policy does not require any significant amendment, there are minor amendments only in respect of personnel.

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

The recommended proposal(s) is that the Audit Committee:

3.1 Notes that the Council has not made use of surveillance or acquisition of communication data powers under RIPA since it was last reported on the 25<sup>th</sup> January 2023.

3.2 Adopts the RIPA Policy with minor amendments in respect of personnel.

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

4.1 Not Applicable.

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

5.1 The Policy will be implemented immediately should the Committee approve it.

### **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)**

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