

## Review of Policy and Procedure under the Regulation of Investigatory Powers Act 2000

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### Purpose of this report

1. To provide an annual update of the Council's use of its powers and compliance under and with the Regulation of Investigatory Powers Act 2000 (RIPA).

### RECOMMENDATION

The Committee is asked to consider and note the Summary of RIPA applications detailing the Council's use of its powers and compliance with RIPA since the last report.

### Introduction

2. As part of its statutory functions it is sometimes necessary for the Council to carry out covert surveillance. This is normally in the area of enforcement such as trading standards or in relation to other suspected criminal activity such as benefit fraud.
3. As surveillance may infringe the rights of individuals, it must be carried out in accordance with RIPA and the procedure within the Council's Policy and Procedure Guide in order to ensure it is reasonable and proportionate and does not breach other legislation such as the Data Protection Act 2018, General Data Protection Regulations 2018 or the Human Rights Act 1998.
4. Independent oversight and inspection of the use of RIPA by public bodies is carried out by the Investigatory Powers Commissioner's Office (ICPO).
5. The last inspection by ICPO was carried out on 8 August 2017 and the committee received an update on the inspection at its October 2017 meeting. The Surveillance Commissioner confirmed that the next

inspection will be scheduled for 2020. It is anticipated that the ICPO will honour this date.

### **Current Position**

6. The SRO has made minor updates to the RIPA Policy and Procedure Guide so it is up to date with current post holder's names and job titles and to reflect the new Data Protection Act 2018. The current version of the Guide is attached as Appendix A.
7. The SRO and new RIPA Co-ordinators received training on RIPA in August 2018 from a specialist external training provider.

### **Annual Report on the use of RIPA**

8. Where it is proposed to carry out covert surveillance relating to preventing or detecting serious criminal behaviour which would carry a custodial sentence of at least 6 months or relates to offences for the sale of alcohol and tobacco to children RIPA will apply.
9. Where RIPA applies an Investigation Officer must provide a report to an Authorising Officer (AO) who must then approve the surveillance. The surveillance must be proportionate and necessary under RIPA and there may be other considerations under legislation to take account of to ensure it is also reasonable and in the public interest. The AO will complete the relevant paperwork and send it to the SRO who will arrange for it to be checked. An application is then made to the Magistrates Court who will either allow the surveillance or will reject the application.
10. One application for covert surveillance under RIPA was made in July 2018. The summary is detailed in Appendix B attached.

### **Council Priorities**

11. The Policy and effective and compliant use of RIPA supports all of the Council's priorities through reducing fraud or other criminal activity either as part of the Council's regulatory activities or to ensure proper use of resources and services.

### **Corporate Implications**

#### **Risk Management**

12. It is important that the Council has in place an effective legal procedure for carrying out surveillance within the framework of RIPA. The risk to the Council of a failure in this area is the failure to obtain a conviction with attendant costs and reputational damage and/or the incorrect and potentially illegal expenditure of resources on or with services users who are not entitled to such services.

### **Staffing (including Trades Unions)**

13. There are no specific staffing issues arising from this report.

### **Legal Implications**

14. All public organisations have a duty to comply with RIPA. Failure to do so may render any surveillance information inadmissible in Court or leave any decisions made open to legal challenge. Non-compliance with RIPA may also mean that there is a breach of the Human Rights Act 1998 or the Data Protection Act 2018.
15. Regular review of the Guide will ensure the Council's processes and procedures remain fit for purpose and should ensure the Council continues to comply with RIPA and minimise any risks associated with covert surveillance.

### **Financial Implications**

16. There are no direct financial implications arising from this report.

### **Equalities Implications**

17. Central Bedfordshire Council has a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. These requirements will form part of the tests carried out within the RIPA procedures.

### **Conclusion and next Steps**

18. The committee is asked to note the RIPA surveillance applications summary.

### **Appendices**

Appendix A - RIPA Policy and Procedure Guide

Appendix B – Summary of RIPA Surveillance Applications

### **Background Papers**

There were no background papers taken into account save as already mentioned. The Home Office Codes are available via the following link:  
<https://www.gov.uk/government/publications/covert-surveillance-and-covert-human-intelligence-sources-codes-of-practice>