

FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

AUDIT COMMITTEE

19 July 2022

Report of the Assistant Director of Finance (Audit)

Regulation of Investigatory Powers Act (RIPA)

1. Purpose

- 1.1 To provide Members with an update on the use of Council's statutory powers provided for under the Regulation of Investigatory Powers Act (RIPA) 2000 as amended by the Investigatory Powers Act (IPA) 2016.

2. Information and Analysis

- 2.1 In discharge of this Committee's responsibilities for on-going monitoring of activity in this area, Audit Services were requested to produce regular monitoring reports on activity for review by Members and to provide an assurance on the effective operation of the Council's Policy relating to the Act.
- 2.2 The Council's Audit Committee last received a RIPA update report from Assistant Director of Finance – Audit, in February 2022. This provided members with details of non-RIPA applications made for the 21 month period to 31 December 2021.
- 2.3 This latest report covers the period from 01 January 2022 to 30 June 2022 and sets out details of applications made.
- 2.4 RIPA and the IPA contain powers for various bodies to carry out covert surveillance, requests for communications data and other covert activities. Certain covert powers under RIPA are available to local authorities and can be used in appropriate circumstances in accordance

with the requirements of the legislation to support the delivery of their functions. The Investigatory Powers Commissioner's Office (IPCO) oversees the use of covert powers under RIPA by local authorities.

- 2.5 The Council can only undertake RIPA activity if the proposed operation is approved by one of the authorising officers. The authorising officer must also be satisfied that the proposed directed surveillance is proportionate to what is sought to be achieved. Communications Data requests are subsequently approved by the Council's Single Point of Contact (SPOC) at the National Anti-Fraud Network (NAFN). This process provides safeguards to establish a high level of confidence that all data obtained under the powers overseen by IPCO, is obtained lawfully.

Access to Communications Data

- 2.6 I am the Senior Responsible Officer for approvals of RIPA and Communications Data (CD) requests on behalf of the Council. One application was made in this period in respect of access to communications data (CD). This request was submitted by Trading Standards to assist with a live investigation that they were leading. I considered that the request was deemed necessary, planned enquiries were proportionate and for a legitimate purpose.

Authorisation of Directed Surveillance

- 2.7 No applications have been received in this period in relation to directed surveillance.

Non- RIPA requests

- 2.8 No non-RIPA have been received for authorisation in this period.

Policy Refresh and Training

- 2.9 My report received by Audit Committee in February 2022 noted that the Council's RIPA policy was over-due for refresh and that work on this was scheduled later this year. This was to follow the release of updated Codes of Practice by the UK Government Home Office, due early 2022, about use of overt investigatory powers and application of RIPA legislation.
- 2.10 By 29 June 2022, the updated Code of Practice still had not been released by the Home Office, and there is no information on the Home Office website to confirm the revised publication date. The IPCO and

Home Office will be contacted to confirm when the revised Code will become available.

- 2.11 It is still intended that a review of the Council's RIPA Policy will be undertaken when we receive updated information about publication of the revised Home Office guidance. This will be followed by training for appropriate officers, and further awareness work to remind officers about RIPA.

3. Consultation

- 3.1 No consultation is required.

4. Alternative Options Considered

- 4.1 Audit Committee could choose not to consider the report content and recommendations.

5. Implications

- 5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

6. Background Papers

- 6.1 File held electronically by the Assistant Director of Finance (Audit).

7. Appendices

- 7.1 Appendix 1 – Implications.

8. Recommendation(s)

That the Audit Committee note that:

- a) in the period 01 January 2022 to 30 June 2022 one application relating to Communications data was made under the Council's powers relating to RIPA
- b) it is intended to review the Council's RIPA Policy following publication of revised Home Office guidance.
- c) training and awareness activity will be programmed following the RIPA Policy refresh.

9. Reasons for Recommendation(s)

- 9.1 It is prudent and responsible practice for the Audit Committee to be kept informed of the powers exercised and actions taken under Council duties arising from RIPA.
- 9.2 The IPCO recommends that members received updates twice a year to notify them whether any powers have been used or not.

Report Author: Dianne Downs
Contact details: Dianne.downs@derbyshire.gov.uk

Appendix 1

Implications

Financial

1.1 None

Legal

2.1 The Regulation of Investigatory Powers Act 2000 and the Investigatory Powers Act 2016 regulate the use of a range of investigative powers by a variety of public authorities. This legislation provides a statutory framework for the authorisation and conduct of certain types of covert surveillance. Its aim is to provide a balance between preserving a person's right to privacy and enabling enforcement agencies to gather evidence for effective enforcement action. Local authorities can only use these powers for the prevention and detection of crime and their use is subject to review by the independent Investigatory Powers Commissioner's Office.

Human Resources

3.1 None

Information Technology

4.1 None

Equalities Impact

5.1 None

Corporate objectives and priorities for change

6.1 The Council is committed to ensuring good governance and compliance with applicable laws and regulations.

Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)

7.1 None