

Part A

Report to: Audit Committee

Date of meeting: Thursday, 29 July 2021

Report author: Group Head of Democracy and Governance

Title: RIPA

1.0 Summary

1.1 To note that in the last year the council has not had recourse to using the Regulation of Investigatory Powers Act (RIPA) for directed surveillance and that the Investigatory Powers Commissioners Office (IPCO, the body that oversees the operation of RIPA) undertook a remote inspection of how the council was using RIPA on 29 March 2021.

2.0 Risks

2.1

Nature of risk	Consequence	Suggested Control Measures	Response (treat, tolerate, terminate or transfer)	Risk Rating (combination of severity and likelihood)
Officers fail to apply for RIPA authorisation as required by the Act.	The evidence collected using directed surveillance will be inadmissible and could result in a failure to convict.	Officers are trained in RIPA.	Treat	2

3.0 Recommendations

3.1 The Committee notes that no RIPA authorisations have been made in this last financial year.

3.2 The Committee notes the outcome of the remote inspection by IPCO on 29 March 2021.

Further information:

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4.0 Detailed proposal

- 4.1 This committee oversees the council's use of RIPA. Since the restrictions imposed on councils' use of RIPA by the Protection of Freedoms Act, which limited the ability to undertake directed surveillance to offences where the penalty was six months or more imprisonment or selling alcohol or tobacco to children, and the need to get approval from a magistrate where it was applicable, the council now rarely uses the powers.
- 4.2 The council has not applied for directed surveillance approval since 2016 and last applied via the National Anti-Fraud Network (NAFN) for communications data in 2019.
- 4.3 As a result of our low usage of the powers, the IPCO, which oversees the use of the legislation and undertakes inspections of bodies who use them undertook a remote inspection on 29 March 2021, rather than undertaking a desktop or in person inspection. The previous inspection was in 2018 when a desktop inspection was undertaken. The inspector found that the council had complied with the recommendations made in the previous inspection as training had taken place and the policy had been updated. The inspector was satisfied we had appropriate policies and procedures in place and these were available and accessible to those officers who might need to seek an authorisation or grant one. It was agreed that further refresher training would be offered and that the results of the inspection be reported to this committee. The refresher training took place on 15 July 2021.

5.0 Implications

5.1 Financial

- 5.1.1 The Shared Director of Finance comments that there are no financial implications in this report

5.2 Legal Issues (Monitoring Officer)

- 5.2.1 The Group Head of Democracy and Governance comments that there are no legal implications in this report

5.3 Equalities, Human Rights and Data Protection

- 5.3.1 It is a requirement of considering any application for authorisation under RIPA to have regard to the human rights of those likely to be the subject of the surveillance as well as anyone indirectly affected and any collateral intrusion.

Background papers

No papers were used in the preparation of this report.