

Regulatory and Audit Committee

Title: Regulation of Investigatory Powers Act 2000

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Summary

The purpose of the paper is to report the Council's revised arrangements for exercising its powers under the Regulation of Investigatory Powers Act 2000

Recommendation

The Committee is asked to note the arrangements for authorising surveillance activity under the Regulation of Investigatory Powers Act 2000 (RIPA), and to agree to receive quarterly reports of authorisations and an annual review of all RIPA activity and the Council's Covert Surveillance Policy and Procedure.

Background

The County Council has a number of functions to undertake which involve the enforcement of laws and regulation and officers may need to conduct investigations and where appropriate take legal proceedings. In exceptional circumstances, the Council has the power to make use of covert surveillance and similar activities.

The Regulation of Investigatory Powers Act 2000 (RIPA) and the Codes of Practice issued under section 71 of that Act regulates the way in which the County Council conducts surveillance for the purposes of law enforcement. The fundamental requirement of RIPA is that when the Council considers undertaking directed surveillance or using a covert human intelligence source it must only do so if: a) the activity has been authorised by an officer with appropriate powers, and b) the relevant criteria are satisfied.

The County Council's RIPA procedures and activity are subject to inspection by the Office of the Chief Surveillance Commissioner.



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Authorisation Arrangements

The Council has recently reviewed its authorisation arrangements in the light of updated guidance from the Chief Surveillance Commissioner. The Code of Practice (December 2014) provides that the Senior Responsible Officer (SRO) for RIPA within a local authority should be a member of the corporate leadership team and should be responsible for ensuring that all authorising officers (Designated Persons - DPs) are of an appropriate standard.

From 1 April 2015, the SRO appointed for the Council is the Director of Strategy & Policy & Monitoring Officer who has in turn appointed Phil Dart (Service Director Communities) and Linda Forsythe (Assistant Director Buckinghamshire Law Plus and Deputy Monitoring Officer) to be the DPs for the Council. The DPs are responsible for granting RIPA authorisations.

Since March 2015 it has been a requirement that DPs must be independent from operations and investigations when granting authorisations or giving notices in relation to investigations in which they are directly involved. The Council meets this operational independence stipulation since the two DPs work in separate areas (one in communities/trading standards and one in legal services).

Any authorisations by the DPs are subject to stringent requirements laid down in the 2000 Act and the Codes of Practice including necessity on statutory grounds and proportionality in all the circumstances. The SRO and DPs have registered with the National Anti-Fraud Network (NAFN) which is a membership, not for profit organisation open to any publicly funded organisation. NAFN provides best practice advice and acts as the hub for the collection of RIPA data.

Use of the Regulation of Investigatory Powers Act 2000 (RIPA)

In the light of the Council's review of its arrangements and the Codes of Practice, it is recommended that the Director of Strategy & Policy should produce quarterly reports of authorisations and an annual review of all RIPA activity and the Council's Covert Surveillance Policy and Procedure and that this should be reported to the Regulatory and Audit committee. The review should include the results of any external inspection by the Office of Surveillance Commissioners. The first annual report would be available in July 2016 and quarterly report in February 2016.

Background Papers

Report of the Chief Surveillance Commissioner 2014-15 <https://osc.independent.gov.uk/wp-content/uploads/2015/06/OSC-Annual-Report-2014-15-web-accessible-version.pdf>.
