



Report to Audit and Governance Committee

Date: 27 September 2023

Title: **Annual RIPA Report**

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Ward(s) affected: All

Recommendations: The Committee is asked:

- 1. To note the outcome of the review of the Council’s arrangements for its use of its powers under the Regulation of Investigatory Powers Act 2000 (RIPA) by the Investigatory Powers Commissioner’s Office (IPCO)**
- 2. To note the update on the use of powers available under RIPA**

Reason for decision: Member oversight of the use of RIPA powers and policies are part of governance arrangements in relation to exercise of the Council’s functions.

1. Executive summary

- 1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) governs the acquisition and disclosure of communications data and the use of covert surveillance by local authorities.
- 1.2 The Council uses powers under RIPA to support its core functions for the purpose of prevention and detection of crime where an offence may be punishable by a custodial sentence of 6 months or more or the offence is related to the underage sale of alcohol and/or tobacco.
- 1.3 RIPA powers cover the use of directed surveillance and the use of covert human intelligence sources (CHIS). The acquisition of communications data is now dealt with under the Investigatory Powers Act 2016 and is not covered within this report.
- 1.4 RIPA sets out the procedures that the Council must follow if it wishes to use surveillance techniques in order to support core function activities.

- 1.5 The Home Office Covert Surveillance and Property Interference Revised Code of Practice (August 2018) recommends that elected members, whilst not involved in making decisions or specific authorisations should review the Council's use of the legislation and provide approval to its policies.

2. Background

Regulation of Investigatory Powers Act 2000

- 2.1 The Council can only use powers under RIPA to support its core functions for the purpose of prevention and detection of crime. RIPA procedures must be used where there is any covert surveillance in relation to an investigation of an offence punishable by a custodial sentence of 6 months or more or the offence is related to the underage sale of alcohol and/or tobacco.
- 2.2 Where used, RIPA powers are usually undertaken by enforcement teams and Trading Standards.
- 2.3 Covert surveillance can include but is not limited to monitoring of social media, audio or visual recording of individuals either by CCTV or by officers, test purchases or other surveillance.
- 2.4 RIPA procedures require an internal approval by an Authorised Officer to ensure the proposed use of RIPA powers is 'necessary and proportionate'. A judicial approval is then required by the Magistrates Court before surveillance can be carried out. There are strict time limits for how long surveillance can continue, renewal of authorisations and requirements for record keeping.
- 2.5 The Council has a Covert Surveillance Policy and Procedure which governs the Council's use of RIPA. This is available on the Council's website.
- 2.6 The Council is required to have a Senior Responsible Officer to maintain oversight of RIPA arrangements, procedures and operations. Buckinghamshire Council's Senior Responsible Officer is the Service Director, Legal and Democratic Services.

Investigatory Powers Commissioner's Office

- 2.7 The Investigatory Powers Commissioner has a statutory responsibility for reviewing the use of investigatory powers by public authorities throughout the United Kingdom.
- 2.8 As part of this oversight IPCO carry out regular inspections, usually every 3 years, to ensure compliance with surveillance powers. This will involve consideration of both the arrangements in place, governance and use of the powers. Feedback and recommendations for improvement will be made where considered appropriate.

In addition IPCO require annual statistical data each year. The Annual Report is published on the IPCO website at the following link
<https://www.ipco.org.uk/publications/annual-reports/>

3. Matters to Consider

3.1 The Council was inspected by IPCO in September 2020 and the outcome of that inspection was reported to this committee on 18 November 2020. Inspections usually take place every 3 years and the next inspection was therefore due this year. IPCO contacted the Council over summer with a number of questions and based on responses to them and subsequent engagement with the Inspector IPCO was satisfied that there was, and will be, ongoing compliance with RIPA and also the Investigatory Powers Act 2016 and that a further inspection this year was not required.

3.2 Since creation of Buckinghamshire Council RIPA powers have been used twice. These details were provided to the Inspector who was satisfied with the processes used but did suggest further details could be added to authorisation applications when the criteria for different types of surveillance may apply. This will be done in future.

3.3 Details of the applications that the Council has made since 1 April 2020 are:

The number of applications made for a Directed Surveillance authorisation	2
The number of Directed Surveillance authorisations successfully granted	2
The number of Directed Surveillance authorisations that were cancelled	2
The number of Directed Surveillance authorisations extant at the date of this report	0

3.4 The Council's use and exercise of its RIPA powers is governed by its Covert Surveillance Policy and Procedure. In September 2020 the Policy was commended subject to one minor change. This change was implemented and the details of named officers and their responsibilities in relation to RIPA have also been updated. In view of this it has not been considered necessary to review the content of the Policy itself but a review is proposed for the coming year.

3.5 An annual report will be brought to this committee to ensure ongoing oversight by members. It is proposed that this takes place at the first meeting of the committee after January each year after the annual statistics return is made to IPCO.

4. Other options considered

4.1 None.

5. Legal and financial implications

5.1 RIPA provides extensive powers for public authorities which are necessarily intrusive. It is an important part of the Council's governance arrangements that officers adhere to the Council's policies and the law when using these powers. An additional safeguard is regular inspection by IPCO.

6. Corporate implications

6.1 RIPA is only used as a last resort within the Council, but officers do need to be aware of these powers, and be appropriately trained in their use and authorisation. A training programme is in place to address this with relevant officers.

7. Local councillors & community boards consultation & views

7.1 Not applicable.

8. Communication, engagement & further consultation

8.1 Not applicable.

9. Next steps and review

9.1 A review of the Policy will be undertaken and a report will be brought back to the Committee on any recommended changes and the use of RIPA generally.

10. Background papers

10.1 None.

