

**27th September 2017**

**Audit Committee**

**Regulation of Investigatory Powers Act 2000**

**Report of:** *Daniel Toohey, Monitoring Officer and Head of Legal Services*

**Wards Affected:** *All*

**This report is:** *public*

**1. Executive Summary**

- 1.1 The Office of Surveillance Commissioners (OSC) conducts periodic inspections of local authorities' use of their powers under the Regulation of Investigatory Powers Act 2000 (**RIPA**). The purpose of these inspections is to examine the Council's policies, procedures, operations and administration in relation to directed surveillance and covert human intelligence sources (**CHIS**) under RIPA.
- 1.2 The last inspection took place on 21 July 2014 and resulted in one recommendation: Paragraph 3.30 of the Covert Surveillance and Property Interference Code requires elected members to periodically review the use of RIPA. This report will enable members to achieve this objective by reviewing any RIPA activity in the preceding period and to consider the attached revised RIPA policy document which incorporates guidance on use by local authorities of social networking sites.

**2. Recommendation(s)**

- 2.1 **That the Committee approves the amendments to the Corporate RIPA policy in order to address use of social networking sites by local authorities;**
- 2.2 **That the Committee note the statistical information relating to the use of RIPA over the preceding 3 years**

**3. Introduction and Background**

- 3.1 The Regulation of Investigatory Powers Act 2000 (RIPA) legislates for the use by local authorities of covert methods of surveillance and information gathering to assist in the detection and prevention of crime in relation to an authorities core functions.
- 3.2 The Council's use of these powers is subject to regular inspection and audit by the Office of the Surveillance Commissioner (**OSC**) in respect of covert surveillance authorisations under RIPA, and the Interception of Communications Commissioner (**IOCCO**) in respect of communications data. During these inspections, authorisations and procedures are closely examined and Authorising Officers are interviewed by the inspectors.

#### **4. Issue, Options and Analysis of Options**

##### Training:

- 4.1 Training of relevant personnel took place during Summer 2017. This focused on reminding staff of their ongoing obligations under RIPA with emphasis on the appropriate use of social networking sites so as to avoid inadvertent covert surveillance operations for which RIPA Authorisation would be required.

##### Amended RIPA Policy:

- 4.2 The draft RIPA Policy has been amended to reflect supplementary guidance issued by the OSC on 20 March 2017 in relation to use of social networking sites (OSC Procedures and Guidance Note 289 refers). This guidance is contained within the draft Policy as new item number 4 entitled "Covert Surveillance of Social Networking Sites". A copy of the draft RIPA Policy is attached at **Appendix A**.

##### Statistical Information:

- 4.3 The Committee is asked to note the following statistical information relating to the use of RIPA over the period between August 2014 and September 2017.
- 4.4 **August 2014 - September 2017      Total No. Of RIPA authorisations 0**
- 4.5 **August 2014- September 2017      Total No. Of CHIS authorisations 0**
- 4.6 Officers are encouraged to use overt surveillance wherever possible, and use RIPA as a last resort. Often necessary evidence can be obtained

overtly, and if an officer makes his or her investigation visible, this alone can have the desired effect of compliance.

4.7 National Anti-Fraud Network (NAFN)

Occasionally 'data matching' (for example, matching a telephone number to a specific individual) is necessary to identify those engaging in criminal activity. The Council is a member of NAFN through whom requests for such data are regulated and, where legitimately applied for, processed. Members should note that one such data matching exercise was conducted during the last year.

**5. Reasons for Recommendation**

- 5.1 To comply with RIPA and to assist with Members' oversight and decision making on the attached draft RIPA Policy.

**6. Consultation**

n/a

**7. References to Corporate Plan**

- 7.1 These actions assist with the work towards a safer borough.

**8. Implications**

**Financial Implications**

**Name & Title:** John Chance, Director of Finance and S.151 Officer

**Tel & Email:** 01277 312542; John.Chance@Brentwood.gov.uk

- 8.1 There are no financial implications directly related to this report

**Legal Implications**

**Name & Title:** Daniel Toohey, Head of Legal Services and Monitoring Officer

**Tel & Email:** 01277 312860; Daniel.Toohey@brentwood.gov.uk

- 8.2 Legal implication comments are contained within this report above.

**9. Appendices to this report**

Appendix A – Draft RIPA Policy

**Report Author Contact Details:**

**Name:** Daniel Toohey, Head of Legal Services  
**Telephone:** 01277 312860  
**E-mail:** Daniel.Toohey@brentwood.gov.uk