

30th September 2014

Audit & Scrutiny Committee

REGULATION OF INVESTIGATORY POWERS ACT 2000

Report of: *Chris Potter, Monitoring Officer and Head of Support Services*

Wards Affected: *N/A*

This report is: *Public*

1. Executive Summary

- 1.1 The Office of Surveillance Commission conducts periodic inspections of local authorities' use of their powers under the Regulation of Investigatory Powers Act 2000 (**RIPA**). The purpose of these inspections – usually conducted by a High Court judge – 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 Prior to the current OSC inspection, which took place on 21 July 2014, the previous inspection was in 2010. This report provides an update as to: the positive outcome of the current OSC inspection; a revised RIPA policy for the Committee's consideration (which addresses the 2010 recommendations as well as the intervening changes in the law); and finally an annual report of the Council's use of RIPA over the previous 4 years.

2. Recommendation(s)

- 2.1 **That the Committee note the outcome of the 2014 OSC Inspection report;**
- 2.2 **That the Committee approves the amendments to the Corporate RIPA policy in order to address the 2010 Inspection recommendations and intervening changes in the law;**
- 2.3 **That the Committee note the statistical information relating to the use of RIPA over the preceding 4 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

Inspection Report:

- 4.1 The last OSC inspection was undertaken by His Honour Dr Colin Kolbert in November 2010 which made 3 recommendations. The current Head of Legal (former Monitoring Officer) identified a need in 2014 to update the Council's RIPA policy to address these recommendations and in the light of the changes made by new Protection of Freedoms Act 2012.
- 4.2 Attached at **Appendix A** is a copy of the current OSC Inspection undertaken by Mr Kevin Davis who visited the Council on 21 July 2014 and issued his report on 14 August 2014.
- 4.3 The inspector made several observations in relation to the Council's RIPA procedures and policies. The inspector noted that the draft RIPA policy document fully addressed and discharged the recommendations of His Honour Dr Colin Kolbert's report of 2010.
- 4.4 The inspector examined the draft RIPA policy and found it to be comprehensive and easy to understand for both applicants and authorising officers.

Training:

- 4.5 The Inspector noted that training of 18 relevant personnel had been undertaken in February 2014, that the Council is not a regular user of the powers vested under RIPA but is not afraid to use covert investigative

techniques when required and that the Central Record of Authorisations is compliant with paragraph 8.1 of the Covert Surveillance and Property Interference Code of Practice.

Amended RIPA Code:

- 4.6 The draft RIPA Code has been amended to reflect Mr Davis' suggestion on the role of the Senior Responsible Officer and is now brought to the Committee for its consideration and approval as (to quote the inspector) "a good structure to ensure RIPA compliance". A copy of the draft RIPA Policy is attached at **Appendix B**.

Statistical Information:

- 4.7 The Committee is asked to note the following statistical information relating to the use of RIPA over the intervening period between November 2010 and to August 2014.

4.8 **November 2010 – August 2014 Total No. Of RIPA authorisations 0**

4.9 **November 2010 – August 2014 Total No. Of CHIS authorisations 0**

- 4.10 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.

Transparency:

- 4.11 In, addition, in order to facilitate Freedom of Information Act 2000 requests, it is intended that a redacted version of the Central RIPA Matrix will be uploaded on to the Council's website. Although the Council will be constrained in so far as releasing all the information in relation to RIPA requests, broad details such as the number and dates of the authorisations will be able to be released in order to inform the public as to the volume and nature of RIPA activity in the borough.

5. Reasons for Recommendation

- 5.1 To comply with legislative changes and to assist with Members' oversight and decision making on draft RIPA Code.

6. Consultation

- 6.1 Consultation is with the Chair and Members of the Audit and Scrutiny Committee.

7. References to Corporate Plan

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

8. Implications

Financial Implications

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

Legal Implications

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

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

- 8.3 Contained within the body of the report

9. Background Papers (include their location and identify whether any are exempt or protected by copyright)

- 9.1 None

10. Appendices to this report

Appendix A – OSC Inspection Report 2014

Appendix B – Draft RIPA Policy

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