

SLOUGH BOROUGH COUNCIL

REPORT TO: Audit & Corporate Governance Committee

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WARD(S): All

PART I FOR INFORMATION

Regulation of Investigatory Powers (RIPA) Activity 2018

1 Purpose of Report

The purpose of this report is to update Members of the Committee on the activity undertaken by the Council in terms of its statutory powers provided for under the Regulation of Investigative Powers Act 2000 - known as RIPA.

2 Recommendation(s)/Proposed Action

The Committee is requested to note this report.

3. The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan

The delivery of these strategic priorities is dependent on the highest possible standards of openness, honesty and accountability. This is underpinned by good governance arrangements being in place to support the proper use of investigative powers utilised by the Councils officers and teams to delivery effective statutory enforcement responsibilities.

4 Other Implications

(a) Financial

There are no financial implications arising from this report

(b) Risk Management

<i>Recommendation</i>	<i>Risk/Threat/Opportunity</i>	<i>Mitigation</i>
Members of the Committee note the report	The council faces reputational damage and potential civil action should it fail to follow RIPA procedures. Maintaining RIPA awareness ensures that officers are equipped to make timely RIPA applications to support investigations	The Council has a RIPA policy and procedures in place and maintains training & awareness

(c) Human Rights Act and Other Legal Implications

The law relating to investigatory powers and the oversight of their use is contained in the Regulation of Investigatory Powers Act 2000 (“RIPA”), the Investigatory Powers Act 2016 and related Home Office Guidance, which strongly supports human rights

(c) Equalities Impact Assessment

There is no identified need for an EIA arising from this Report. The original legislation covering these investigative powers underwent EIA when enacted.

5 Supporting Information

5.1 RIPA Activity during 2019

5.1.1 The Council has powers under the Regulation of Investigative Powers Act 2000 (RIPA) to conduct authorised directed surveillance (DI) and use of human intelligence sources (CHIS) in certain circumstances when conducting criminal investigations. These powers can only be used by a local authority if it is deemed necessary to prevent or detect criminal offences, which attract a custodial sentence of 6 months or more or criminal offences relating to the underage sale of alcohol or tobacco. All directed surveillance and use of human intelligence Sources require authorisation by the Chief Executive or a Director prior to approval by a Magistrate.

The controls that are put in place on surveillance by RIPA are to ensure a balance is achieved between preserving a person’s right to privacy and a family life and enabling enforcement agencies to gather evidence for effective enforcement action.

In all cases RIPA surveillance must be assessed as ‘necessary’ and ‘proportionate’. Examples of where a RIPA application may be sought include serious fraud or serial benefit fraud and the dumping of dangerous waste, whilst a RIPA application would not be appropriate for e.g. littering, dog control or fly posting.

5.1.2 No applications were made by Council officers during 2019 for the authorisation of direct covert investigative powers under RIPA; this is in line with the trend of low activity over recent years with none in 2018, 1 application in 2017, none in 2016 and 2015 and 3 during 2014.

5.1.3 The low level of activity follows a national reduction in the number of RIPA authorisations sought by local authority investigators following changes to the legislation which required applications to be granted by a magistrate following internal authorisation by a local authority authorising officer, normally the Chief Executive or a Director.

5.2 Annual Return to the Investigatory Powers Commissioner’s Office (IPCO)

5.2.1 The Investigatory Powers Commissioner’s Officer (IPCO) oversees the use of investigative powers by local authorities in the carrying out of their functions, and especially over the use of powers of obtaining evidence covertly.

5.2.2 The Council is required to submit an annual return to the IPCO about their use of RIPA powers. The next return is due on 31st March 2019 and will be compiled by the RIPA Co-ordinator and approved by the Chief Executive and Monitoring Officer prior

to submission to the IPCO. In addition the IPCO carry out periodic inspections of local authorities. The last routine inspection of the Council by the IPCO was carried out on 4 April 2017 and was followed by a special inspection in December 2017. All recommendations from those inspections have been put in place.

5.2.3 The Council maintain and publish on the Council's intranet a RIPA policy and procedural guidance for covert surveillance, which was updated in February 2020 (went under legal scrutiny by HB Law) and was subject to amendments following updates in Home Office Guidance and changes to the communications data application process. Under this policy the Monitoring Officer is the Senior Responsible Officer (SRO) and the Council's Service Lead for Regulatory Services is the RIPA Co-ordinator.

5.3 **RIPA Awareness and Training**

5.3.1. Although applications for covert surveillance are made infrequently the IPCO emphasises the requirement that strong awareness of RIPA is maintained across the Council and allied bodies and in particular that the requirement for RIPA authorisation to always be considered whenever surveillance is contemplated, that contact must be made with the RIPA officers for advice. This is essential to ensure that;

- all officers understand the risk of investigations becoming covert surveillance
- all officers are made aware that whenever authorisation for surveillance is considered the procedures outlined in the Council's RIPA Covert Surveillance Policy and Procedural Guidance are followed in conjunction with the Home Office forms, the Codes of Practice and IPCO Procedures and Guidance.
- all officers who may engage in the use of covert surveillance either as investigators, applicants or authorising officers are fully and regularly RIPA trained.

RIPA update training was provided to managers and officers via the Council's Corporate Enforcement Group on 16th January 2020 and managers were tasked with cascading the training to their teams. In addition the Chief Executive and Directors will receive 'authorising officer' training in the forthcoming year and this is being arranged as we speak. The training would appear to have been successful in reminding officers of the tools at their disposal as 3 new direct surveillance applications are currently being considered.

6 **Conclusion**

The Committee is requested to note this Report and the actions taken to ensure awareness of, and the Council's compliance, with RIPA requirements.

7 **Background Papers**

None.