

Report of Head of Legal Services

11. Regulation of Investigatory Powers Act (RIPA) – Annual Review

Purpose of report

1. To review the Authority's policy on the authorisation of covert surveillance techniques under the Regulation of Investigatory Powers Act 2000.
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Recommendations

It is recommended that:

- i) the Committee note there has been no use of covert investigatory techniques during the past year; and*
- ii) the Head of Legal Services be authorised to make a minor amendment to the existing policy, to include reference to the use of social media, subject to the usual staff consultation.*

Introduction and Background

2. The Regulation of Investigatory Powers Act 2000 ("RIPA") sets out procedural rules to enable specified public authorities to use covert investigatory techniques which might otherwise infringe legal rights to privacy and respect for family life under the Human Rights Act 1998. In particular they govern when and how hidden surveillance, covert witnesses and interception of communications can be used. Fire Authorities are included in the list of public authorities that can rely on RIPA.
3. The Authority has no history of using the covert surveillance techniques covered by RIPA but nonetheless we are required to have a policy in place and are subject to periodic inspection by the Office of Surveillance Commissioners.
4. The current policy was adopted by this committee in March 2013 and it was agreed that in accordance with the Home Office code of practice, an annual report would be made to the Policy and Resources Committee with a review of the policy and the Authority's use of powers under the Act.

Review of RIPA Authorisations

5. The following table shows that the Authority has not dealt with any cases during the past year in which covert investigatory powers were necessary. There is no expectation that there will be a need to use them in the future. The Authority will usually be able to gather all the information required for its statutory functions without resorting to covert techniques.

Applications for RIPA authorisation	nil
Applications granted	nil
Applications refused	nil
Authorisations renewed or extended	nil

Inspection by the Office of Surveillance Commissioners

6. The Surveillance Inspector visited the Service on 2nd March 2016 to undertake an inspection of our RIPA procedures. Whilst formal feedback from the Office of the Surveillance Commissioner is still awaited and will be reported at the meeting if received in time, the Inspector was satisfied with the policies and procedures we have in place.
7. It is likely that this will be the last such inspection we receive. The Office of the Surveillance Commissioner is looking to adopt a risk based approach to inspections in future and it is likely that we will receive a written questionnaire to complete instead of a face to face visit..

Review of Policy

8. Although the Authority has not needed to rely on the use of RIPA, the policy nonetheless:
 - i. reinforces advice to officers that the use of covert investigatory techniques should be avoided in most circumstances;
 - ii. ensures that should the unforeseen and exceptional eventuality arise when reliance on RIPA is needed there will be a clear procedure for handling its use;
 - iii. ensures that any application to use the techniques covered by RIPA will be made using the appropriate Home Office forms and approved by one of the designated 'Authorised Officers'; and
 - iv. meets the requirements of the Office of Surveillance Commissioners.
9. Although the Surveillance Inspector was satisfied with our existing policy , as a result of the discussion with him and subject to the usual staff consultation, I propose to make a small amendment to the policy to include reference to the use of social media for the purposes of surveillance, as follows:

'Care should be exercised when using social media for the purposes of surveillance. Where privacy settings are available but have not been applied the data may be considered open source and an Authorisation is not usually required. Repeat viewing of 'open source' sites may however constitute directed surveillance on a case by case basis. An authorisation for the use and conduct of a covert human intelligence source (CHIS) may be required if an online relationship is established, for example, by becoming someone's social media 'friend' for the purposes of surveillance.'

Conclusion/Summary

10. Best practice under the code of practice requires members of local authorities, including fire authorities, to set the policy on the use of RIPA and to review it annually. However under the codes, members are not to have any role in considering any particular application to rely on RIPA.
11. The Authority has not relied on covert investigatory powers during the past year.

Corporate Considerations

Resource Implications (identify any financial, legal, property or human resources issues)	It is a requirement to have a policy in place but there are no on-going resource implications
Strategic Policy Links (identify how proposals link in with current priorities and policy framework and if they do not, identify any potential implications).	This report enables Fire Authority members to exercise an oversight role on behalf of the wider community
Risk Management / Health & Safety (identify any risks, the proposed control measures and risk evaluation scores).	None
Consultation (identify any public or other consultation that has been carried out on this matter)	None
Equalities (has an Equalities Impact Assessment been completed? If not, why not?)	Not applicable

Supporting Information

Background papers:
RIPA Policy
Policy & Resources Committee report 27th March 2013

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