

25th September 2024

REPORT NO. LEG24/02

**CORPORATE POLICY AND GUIDANCE ON SURVEILLANCE AND THE USE OF
THE REGULATION OF INVESTIGATORY POWERS ACT 2000**

SUMMARY AND RECOMMENDATION:

SUMMARY:

To update Members of the Council's surveillance activities within and outside the scope of the Regulation of Investigatory Powers Act 2000 (RIPA). Members should be regularly updated of any RIPA activity.

RECOMMENDATION: For Members of the Corporate Governance, Audit and Standards Committee to note the contents of this report.

1. INTRODUCTION

- 1.1 Most of the surveillance carried out by the Council will be done overtly, there is nothing secretive about it. In many cases, officers will be going about Council business openly.
- 1.2 The Council's corporate policy on the use of covert techniques under RIPA should be reviewed on a regular basis. The powers under RIPA are used infrequently, if at all some years.
- 1.3 The Investigatory Powers Commissioner's Office (IPCO) reviews Rushmoor Borough Council's policies and procedures relating to RIPA on a regular basis.
- 1.4 Most of the surveillance undertaken by the Council is outside of RIPA, for example, for planning enforcement purposes or under Licensing legislation. The IPCO have made clear in their guidance that robust processes and procedures need to be in place for any surveillance carried, whether under the RIPA provisions or under separate legislation.
- 1.5 CCTV surveillance across the Borough is carried out by Runnymede Borough Council, on behalf of Rushmoor Borough Council, with the appropriate General Data Protection Regulation (GDPR) and contractual arrangements in place. The CCTV surveillance is outside of RIPA.

2. BACKGROUND

- 2.1 Council officers who carry out investigations as part of their duties sometimes need to consider using covert techniques, i.e., techniques that leave the subject of the investigation unaware that they are being observed or investigated.
- 2.2 RIPA provides a framework within which such techniques may be used. All RIPA authorisations must now be approved by the Magistrates' Court before any surveillance can take place.
- 2.3 It should be noted that surveillance outside of RIPA will be undertaken and it is important that this is lawful and takes account of human rights legislation.
- 2.4 Only trained and authorised Council officers may authorise and undertake covert surveillance, all of which is subject to detailed scrutiny by the Investigatory Powers Commissioner's Office (IPCO).
- 2.5 In February 2023, training was provided to staff who are involved in surveillance activities. In Spring 2023, the authorising officers and the RIPA co-ordinator (Corporate Manager – Legal Services) attended a detailed training session. Refresher training will be offered in Spring 2025.

3. UPDATE

- 3.1 There have been no requests for RIPA authorisation via Legal Services, since the last report on 1 June 2023. Confidential legal advice has been provided relating to one or two Licensing matters, however no formal RIPA authorisation was required.
- 3.2 In May 2023, the Council completed a self-assessment of its RIPA activities at the request of the Investigatory Powers Commissioner's Office (IPCO).
- 3.3 On 26 June 2023, the IPCO confirmed that it was content with the Council's RIPA policies and related governance in place and requested that the Council continue with: ongoing training and awareness raising; internal compliance monitoring by Service Managers within their service areas; and the retention, review and destruction of any product obtained through the use of covert powers.
- 3.4 A further inspection by the IPCO is not expected until 2026.
- 3.5 An internal procedure note on Rushmoor Borough Council's internet and social media research/investigations procedure has been drafted to assist officers, for internal purposes only. The use of online open-source internet and social media research techniques can be an effective method of obtaining information to assist the Council, with its regulatory and enforcement functions.

- 3.6 Any social media research/investigations must be in line with the overarching RIPA policy and comply with Human Rights legislation and the General Data Protection Regulations (GDPR).
- 3.7 Training for staff on the social media/investigations procedure note and carrying out the appropriate risk assessments, will be offered towards the end of 2024.

4. LEGAL IMPLICATIONS

- 4.1 A review of the Council's policy on the use of surveillance and use of powers under the Regulation of Investigatory Powers Act 2000 is required to ensure that it complies with any changes in the law, the most recent guidance, and considers any recommendations made on inspection.

5. FINANCIAL AND RESOURCE IMPLICATIONS

- 5.1 There are no additional financial implications as a result of these changes. There is a continuing requirement to ensure that refresher training is provided to officers at regular intervals.

6. EQUALITIES IMPACT IMPLICATIONS

- 6.1 No equalities issues arise, however before undertaking any covert surveillance an equalities impact assessment should be undertaken.

7. SUMMARY

- 7.1 No covert surveillance has been undertaken by the Council this year.
- 7.2 The Council's RIPA policy and procedure remains up-to-date and complies with current guidance.
- 7.3 In June 2023, the Investigatory Powers Commissioner's Office confirmed that it was content with the Council's policies and RIPA activities.

RECOMMENDATION: That the Corporate Governance, Audit and Standards Committee NOTE the contents of this report.

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