

**4 January 2023****Agenda Item: 7****REPORT OF SERVICE DIRECTOR – CUSTOMERS GOVERNANCE AND  
EMPLOYEES AND SENIOR RESPONSIBLE OFFICER FOR RIPA****REGULATION OF INVESTIGATORY POWERS ACT 2000 – ANNUAL  
REPORT****Purpose of the Report**

To report to the Committee:

- a. Activity by the Council under the Regulation of Investigatory Powers Act 2000 (RIPA) for the period since the last update to Committee on 27 January 2022.
- b. Activity by the National Anti-Fraud Network (NAFN) on behalf of the Council under the Investigatory Powers Act 2016 (IPA) in respect of Communications data.
- c. An update on mandatory training for Officers.
- d. An update following the three-yearly Investigatory Powers Commissioner's Office inspection in August 2022.

**Information****Background**

2. The Regulation of Investigatory Powers Act 2000 (RIPA) gives the Council the power to undertake covert surveillance in relation to certain investigations. Since 2017 the Investigatory Powers Commissioner's Office (IPCO) has been responsible for the oversight of the use of RIPA.
3. There is a strict authorisation process set out in the legislation; applications are considered by senior officers before final approval is given by the Magistrates Court. The Council is required to submit an annual statistical return to the IPCO on the number of authorisations made and is subject to periodic inspections.
4. The Council is also able to obtain certain communications data (i.e. data about electronic communications) through the National Anti-Fraud Network (NAFN), an expert provider accredited by the IPCO and the Home Office. This process is carried out in accordance with the Investigatory Powers Act 2016 (IPA). NAFN submits the annual statistical return to the IPCO on the number of submissions made by it on behalf of the Council.
5. A programme of monitoring and review is set out in the Council's RIPA policy and guidance. Since 2017 annual reports are made to the Governance and Ethics

Committee. Throughout the year quarterly reports of Trading Standards activity, which includes use of RIPA, are made to the Cabinet Member for Communities.

6. This is the fifth oversight report to Governance and Ethics Committee since November 2017. This report covers January 2022 to December 2022.

### **Annual Activity January 2022 to December 2022**

7. There have been no new RIPA applications or authorisations during this period.
8. NAFN has confirmed that it has made no new applications for communication data access for this period on behalf of the Council.
9. Training and awareness raising activity has been undertaken as follows:
  - a. Refresher RIPA training was undertaken by the Council's Senior Responsible Officer (SRO) for RIPA (the Service Director for Customers, Governance and Employees), the Service Director for Place and Communities and the Group Manager for Trading Standards and Communities in March and July 2022. The recently appointed Service Director for Help, Protection and Care (formerly Service Director for Youth, Families and Social Work) will receive training in early 2023.
  - b. Trading Standards Officers accessed EM Law Share webinars in relation to RIPA in January and March 2022 and they also participated in interactive training with Nottinghamshire Police with regards to RIPA authorisation in relation to social media communications on 2 December 2022. They are also in the process of securing additional external training for 2023.
  - c. Awareness raising for employees and staff will be undertaken imminently via Yammer and an article for publication on Team Talk will be submitted in Spring 2023.

### **IPCO Inspection**

10. On 5 August 2022 the Council was inspected by the IPCO. This was a video and desktop inspection and was facilitated by the Council's Senior Responsible Officer. The previous inspection was undertaken in November 2019. In summary, the Inspector noted that since the last inspection the suggested improvements had been made, to what were already good compliance standards. The Inspector was satisfied that the Council's RIPA policy is well formed and regularly reviewed and that training and refresher training for relevant Officers is an established feature within the Council. A suggested amendment to the existing policy related to retention periods and ensuring that these are compliant with the safeguarding chapters of the RIPA Codes of Practice, and in response to this work is currently in progress with the Information Governance Team with regards to ensuring uniformity within the Council's Corporate Retention Schedule. This will in turn be added to the existing policy and guidance. In conclusion, the Inspector commented that, "Your authority has been found to be in a good place" and that the information provided in the inspection demonstrated a level of compliance that removed the requirement for a physical inspection.
11. The Council will submit the annual statistical return to IPCO for the 2022 period by 31 January 2023.

## **Other Options Considered**

12. None. Activity under the RIPA Policy requires reporting to Committee.

## **Reason/s for Recommendation/s**

13. To ensure the Council is able to exercise its statutory powers in relation to RIPA (and for NAFN to make the relevant applications on its behalf in respect of communications data in relation to IPA) where it is necessary and proportionate to do so.

## **Statutory and Policy Implications**

14. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Where appropriate consultation has been undertaken and advice sought on these issues as required

## **Crime and Disorder Implications**

15. Use of surveillance can assist the Council in relation to the reduction of crime in Nottinghamshire.

## **Human Rights Implications**

16. Every authorisation for surveillance requires consideration of human rights including the right to privacy and the right to a fair trial. The rights of people under surveillance need to be balanced against public safety and the prevention of crime. Every authorisation, therefore, has to clearly set out why the surveillance is considered necessary and proportionate in the circumstances.

## **RECOMMENDATION/S**

- 1) That Committee notes the content of the report regarding activity over the past 12 month period.

**Marjorie Toward**

**Service Director, Customers Governance and Employees and Senior Responsible Officer for RIPA**

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## **Constitutional Comments (HD- 6/12/2022)**

17. The report falls within the remit of Governance and Ethics Committee as the body responsible for oversight of the Council's broad governance framework of which the

RIPA arrangements form an important element. The Council is required to have procedures and policies in place to meet the legal requirements of the RIPA legislation and this report sets out relevant activity in respect of those matters within the past 12 month period.

### **Financial Comments (SES 14/12/2022)**

18. There are no specific financial implications arising directly from this report.

### **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

### **Electoral Division(s) and Member(s) Affected**

All