

8 November 2017**Agenda Item: 7****REPORT OF THE MONITORING OFFICER****THE REGULATION OF INVESTIGATORY POWERS ACT – ANNUAL REPORT****Purpose of the Report**

1. To advise Governance and Ethics Committee of the Council's activity under the Regulation of Investigatory Powers Act (RIPA) and to agree a staff awareness campaign.

Information and Advice

2. The Regulation of Investigatory Powers Act 2000 (RIPA) gives the Council the power to undertake covert surveillance in relation to certain investigations. 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.
3. A programme of monitoring and review is set out in the Council's RIPA and Surveillance Policy.
4. Consequential changes have been made to the Policy in order to reflect the Council's revised committee arrangements from May 2017. Quarterly reports have already been submitted to Communities and Place Committee which has responsibility for matters previously considered by Community Safety Committee. This is the first annual oversight report to Governance and Ethics Committee as this type of issue is covered by this new committee's terms of reference.
5. Since the last annual report in September 2016 RIPA powers have been used sparingly by the Council.
 - a. No new authorisations for covert surveillance have been granted. There is one ongoing Trading Standards prosecution relating to supply of illicit and counterfeit cigarettes and tobacco, for which evidence was gathered in April 2016 using covert surveillance.
 - b. Five applications have been made for access to communications data to assist with Trading Standards investigations. Communications data includes telephone and email account information, but not the content of any communication. One has resulted in no further action, whilst one is connected to an investigation which is currently in the Nottingham Crown Court for Fraud Act offences. The other 3 relate to ongoing investigations.

6. Although RIPA powers are used infrequently it is essential that employees are aware of the requirements to make sure any surveillance is properly authorised. Awareness raising for employees is undertaken periodically. In April 2016 the Chief Executive published a blog on the subject and articles were published in Team Talk, and on the Council's Intranet News. It is proposed to run a similar staff awareness campaign before the end of the year.
7. The focus will be on use of social media for investigations; the Office of the Surveillance Commissioner wrote to all local authorities this year highlighting the the importance of ensuring staff are aware of the issues that can arise when using Facebook and other social media.
8. The Council's Policy and procedure will also be updated to reflect the fact that from 1 September 2017 The Office of Surveillance Commissioners and The Interception of Communications Commissioner's Office were abolished. The Investigatory Powers Commissioner's Office (IPCO) is now responsible for the judicial oversight of RIPA.

Other Options Considered

9. None; the proposed awareness campaign complies with good practice guidance issued by the Office of the Surveillance Commissioner.

Reason/s for Recommendation/s

10. To ensure the Council is able to exercise its statutory powers in relation to RIPA where it is necessary and proportionate to do so.

Statutory and Policy Implications

11. 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. Appropriate consultation has been undertaken and advice sought on these issues as required.

Crime and Disorder Implications

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

Human Rights Implications

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. This is why every authorisation has to clearly set out why the surveillance is considered necessary and proportionate in the circumstances.

RECOMMENDATION/S

- 1) To approve the proposals set out in the report to raise staff awareness in relation to RIPA
- 2) That members consider whether there are any actions they require in relation to the issues contained within the report
- 3) That members agree to receive a further overview report in 12 months' time and that this be included in the work programme

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Constitutional Comments (SMG 13/9/17)

12. The proposals set out in this report fall within the remit of this Committee.

Financial Comments (SES 10/10/17)

13. 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.

- Communities and Place Committee report dated 7 September 2017 is published
- Letter from the office of Surveillance Commissioners dated 20 March 2017 – Covert Surveillance and Social Networking Sites
- Nottinghamshire County Council's RIPA and Surveillance Policy

Electoral Division(s) and Member(s) Affected

- All