

6 January 2021

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 (RIPA) for the periods from November 2019 to December 2020.
- b. An update on mandatory training for Officers.

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. NAFN submits the annual statistical return to the IPCO on the number of submissions made by 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 Communities and Place Committee.
6. This is the third oversight report to Governance and Ethics Committee since November 2017. This report covers November 2019 to December 2020.

Annual Activity November 2019 to December 2020

7. One new authorisation has been made in relation to an on-going investigation in relation to illicit and counterfeit cigarettes and tobacco. This yielded evidence which is currently being assessed for future criminal proceedings and was duly cancelled upon its expiry. NAFN has confirmed that there have also been 7 new applications for communication data access since the last report in November 2019.
8. The Council will submit the annual statistical return to IPCO for the 2020 period by 31 January 2021.
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) in December 2020 and Trading Standards Officers, (30 Officers including managers) during April, November and December 2020.
 - b. Awareness raising for employees and staff has also been undertaken via the Council's Intranet News.

IPCO Inspection

10. The Council is inspected by the IPCO approximately every 3 years with the last inspection being successfully completed on 1st November 2019. This was a desk-top documentary inspection.
11. The IPCO noted that the Council's RIPA policies were undergoing amendment to reflect changes in RIPA statutory guidance; the Council's social media policy would also benefit from amendment to reflect the Council's updated RIPA Policy and guidance; and that the Council's CCTV policy would benefit from consideration of instances where CCTV is used under RIPA.
12. The amendments to the RIPA Policy were minor consequential changes resulting from changes in RIPA guidance (largely changes to reflect the altered name of the Commissioner bodies, a reference to nicotine inhaling products and a reference to this Committee). As there were no substantive changes to the Policy and changes to supporting guidance is also limited, authority was sought for the Service Director for Customers, Governance and Employees to approve the changes and these were approved on 23 January 2020. The Council's social media and CCTV policies were also amended in January 2020 to include consideration of both being used under RIPA.
13. The next IPCO inspection will be in 2023 and it is anticipated that this will consist of a physical inspection.

Other Options Considered

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

Reason/s for Recommendation/s

15. 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

16. 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

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

Human Rights Implications

18. 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 members consider whether there are any actions they require in relation to the matters contained within the report.

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

For any enquiries about this report please contact:

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Constitutional Comments (HD – 18/12/2020)

The matters within the report fall within the remit of the Governance and Ethics Committee.

Financial Comments (CSB 18/12/2020)

There are no direct financial implications arising from the 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