

BROMSGROVE DISTRICT COUNCIL

CABINET

04 July 2012

Regulation of Investigatory Powers Act (RIPA) - Annual Review

Relevant Portfolio Holder	Cllr Mark Bullivant
Portfolio Holder Consulted	
Relevant Head of Service	Claire Felton
Wards Affected	All
Ward Councillor Consulted	n/a
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 Arrangements are in place under the Council's RIPA policy for Members to receive an annual report on the operation of the policy and any relevant issues which have arisen in the preceding year. Members are asked to note the information contained in this report relating to the administration of the Council's RIPA scheme since April 2011.

2. RECOMMENDATIONS

It is recommended that:

- 2.1 Cabinet considers and notes the contents of the report.**

3. KEY ISSUES

Financial Implications

- 3.1 There are no direct financial implications arising from this report. The work involved in supporting the RIPA policy forms part of the main duties of the officers involved. There is a monetary cost attached to providing annual training for staff but this is a necessary requirement in order for the Council to continue to rely on the RIPA legislation.

Legal Implications

- 3.2 The primary legislation under which covert surveillance is regulated is the Regulation of Investigatory Powers Act 2000. This legislation enables local authorities to undertake covert surveillance and imposes a requirement for any surveillance to be authorised in accordance with that Council's RIPA

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policy. As set out in paragraph 3.10 an additional stage of approval of RIPA authorisations by Magistrates has been introduced in the Protection of Freedoms Act although the parts relating to RIPA have not yet come into force.

Service/ Operational Implications

- 3.3 The Regulation of Investigatory Powers Act 2000 is the legislation which allows local authorities to undertake covert surveillance. For District Councils the need to rely on RIPA powers will arise relatively infrequently, and the use of those powers is limited to circumstances where the Council in carrying out a regulatory role in investigating whether a criminal offence may have been committed. For example, in cases where the Council is investigating suspected benefit fraud.
- 3.4 The RIPA legislation covers covert surveillance activities. In other words situations where observations and evidence are being gathered of which the subject of the investigation is unaware. As by implication this type of activity could be intrusive and involve interference with individual's private and family lives, the RIPA legislation imposes a system of checks and balances which local authorities must comply with. The purpose of this is to ensure that any interference is necessary and proportionate. Members will be aware that a small number of local authorities have been criticised in the past for using RIPA powers in a disproportionate way. For example, to assist in investigating the validity of school entry applications and to prosecute for dog fouling. Members should also note that a considerable amount of observations carried out by Council employees are performed as "overt surveillance", such as car parking enforcement or planning enforcement. These activities fall outside of RIPA and do not need to be authorised.
- 3.5 The Council's RIPA policy was extensively revised and updated in November 2007 to bring it into line with the relevant legislation. At that time Council granted a delegation to the Head of Legal Services to allow the policy to be updated and this has been carried out from time to time as required. The policy was last updated in March 2012 to cover changes to job titles and contact details for staff. As reported previously the policy covers not only Bromsgrove District Council activity but also any covert surveillance activity carried out by Worcestershire Regulatory Services for which Bromsgrove is the host authority.

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Applications made in year ending December 2011

- 3.6 The records for 2011/12 show that a total of 7 applications for RIPA authorisations were made. The applicant on each matter was the Trading Standards Team from Worcestershire Regulatory Services. No applications were made by BDC departments in 2011/12. The typical activities being authorised were operations to target sales of alcohol to under age purchasers and investigations into sale of counterfeit goods. For comparison purposes in the previous 12 month period there were a total of 13 applications all of which related to Trading Standards investigations.

Other issues in last 12 months

- 3.7 As can be seen the level of RIPA activity has continued very much following the same pattern as was reported to members in last years annual report. Having last been inspected in October 2012 the Council has not been inspected in the last 12 months. Officers are continuing to meet on a quarterly basis to review what RIPA applications made in the previous quarter, to ensure all processes under the policy are operating properly and to co-ordinate staff training.
- 3.8 One issue that has received clarification relates to the status of Bromsgrove District Council as host authority for Worcestershire Regulatory Services. As reported in 2011 this was being investigated by officers as the Office of Surveillance Commissioners which oversees the RIPA regime had raised an issue regarding the fact that WRS is a shared service. This has now been resolved with the Commissioner for the OSC who has confirmed that the current arrangements meet the requirements of the RIPA legislation on the basis that Bromsgrove is acting as host authority for WRS.

Training

- 3.9 In accordance with best practice the Council organises regular training on RIPA for staff. This enables officers to keep up to date with current practice and any changes in legislation. The next scheduled training is due to take place in July 2012 and will be open to staff working for Bromsgrove District Council and also staff based at WRS.

Future changes

- 3.10 Legislation has now been introduced whereby Councils will have to obtain a Magistrate's approval for use of covert directed surveillance, covert human intelligence sources (informants) and access to communications data. The Protection of Freedoms Act received the royal assent on 01 May 2012 but the provisions relating to RIPA have not yet been enacted and at this stage it is not clear what the practical impact on local authorities is going to be.

Customer / Equalities and Diversity Implications

- 3.11 The Council's use of covert surveillance will impact on those customers who are subject to investigation. However, all activity is properly managed under the policy which has built in safeguards to ensure minimal interference with private lives. This has to be balanced against the benefit to the community derived from the Council carrying out its regulatory role and bringing prosecutions where it is believed that criminal offences have been committed.

4. RISK MANAGEMENT

- 4.1 The main risks associated with the details included in this report are:
- Failure to operate in accordance with the RIPA legislation resulting in the inadmissibility of evidence submitted to the court in support of Council prosecutions.
 - Misuse of RIPA powers resulting in negative publicity/ complaints from residents
- 4.2 These risks are being managed through the operation of the Council's RIPA policy and maintaining high standards of compliance to the terms of the policy. As can be seen from this report the policy is updated regularly in addition to which officers receive annual training to ensure that all RIPA activity is appropriate and properly authorised.

5. APPENDICES

None

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6. **BACKGROUND PAPERS**

None

7. **KEY**

N/A

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