

Meeting date: 24th March 2021
Report to: Governance committee



Subject/report title: RIPA – Annual report
Report from: Director of Resources and Deputy Chief Executive
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Wards affected:

All Wards | Bickenhill | Blythe | Castle Bromwich | Chelmsley Wood |
 Dorridge/Hockley Heath | Elmdon | Kingshurst/Fordbridge | Knowle |
 Lyndon | Meriden | Olton | Shirley East | Shirley South |
 Shirley West | Silhill | Smith's Wood | St Alphege

Public/private report: Public

Exempt by virtue of paragraph:

1. Purpose of Report

1.1 To provide members with an annual update on the use of RIPA powers.

2. Decision(s) recommended

2.1 Governance Committee is requested to note the Council's use and compliance with RIPA.

3. Matters for Consideration

3.1 The Regulation of Investigatory Powers Act 2000 (RIPA) governs the acquisition and disclosure of communications data and the use of covert surveillance by local authorities.

3.2 The Council uses powers under RIPA to support its core functions for the purpose of prevention and detection of crime where an offence may be punishable by a custodial sentence of 6 months or more, or is related to the underage sale of alcohol and tobacco. The three powers available to local authorities under RIPA are:

(a) the acquisition and disclosure of communications data;

- (b) directed surveillance;
- (c) and covert human intelligence sources (“CHIS”).

- 3.3 The Act sets out the procedures that the Council must follow if it wishes to use directed surveillance techniques or acquire communications data in order to support core function activities (e.g. typically those undertaken by Trading Standards and Environmental Health). The information obtained as a result of such operations can later be relied upon in court proceedings providing RIPA is complied with.
- 3.4 The Home Office Code for Covert Surveillance Property Interference recommends that elected members, whilst not involved in making decisions or specific authorisations for the local authority to use its powers under Part II of the Act, should review the Council’s use of the legislation and provide approval to its policies. The Council adopted this approach for oversight of the authority’s use of Parts I and II of the Act.
- 3.5 RIPA governs the acquisition and disclosure of communications data and the use of covert surveillance by local authorities. The Council can only use powers under RIPA to support its core functions for the purpose of prevention and detection of crime where an offence may be punishable by a custodial sentence of 6 months or more (e.g. offences relating to counterfeit goods which carry a maximum penalty of 10 years in prison) or the offence is related to the underage sale of alcohol and/or tobacco.
- 3.6 Where the above criteria are met, Local Authorities can make an application for the acquisition and disclosure of communications data (such as telephone billing information or subscriber details) or directed surveillance (covert surveillance of individuals in public places); and the use of covert human intelligence sources (“CHIS”) (such as the deployment of undercover officers). The powers are most commonly used by Trading Standards and audit/fraud investigators for e.g. tenancy fraud. However, powers can also be used by other Council services if their offences meet the serious crime threshold, mentioned above.
- 3.7 RIPA sets out the procedure that local authorities must follow when applying to use RIPA powers. These include approval by Authorised Officers that the proposed use of the powers is “necessary and proportionate”. All applications must also be approved by the Magistrates Court before RIPA powers can be exercised.
- 3.8 The Council is required to have a Senior Responsible Officer to maintain oversight of the RIPA arrangements, procedures and operations. The Council’s Director of Resources and Deputy Chief Executive performs this function and is responsible for the integrity of the Council’s process for managing the requirements under RIPA.
- 3.9 The Investigatory Powers Commissioner’s Office (IPCO) is responsible for the judicial oversight of the use of covert surveillance by public authorities throughout the United Kingdom.
- 3.10 The acquisition of communications data is undertaken through the National Antifraud Network (NAFN). They act as the single point of contact for many local authorities and ensure the application is RIPA compliant. It is NAFN that are audited by the commissioners.

3.11 Details of the applications that the Council has made under RIPA are set out below:

Period 1st January 2020 – 31st December 2020

| | |
|---|---|
| Use of Directed Surveillance or Covert Human Intelligence Sources | 0 |
| No. of Directed Surveillance Applications Rejected | 0 |
| No. of Directed Surveillance Applications Granted | 0 |
| No. of Authorisations Presented to Magistrates | 0 |
| No. of Authorisations Granted by Magistrates | 0 |
| No. of Authorisations Rejected by Magistrates | 0 |
| No. of Directed Surveillance Operations Remaining Extant | 0 |

3.12 Use of Acquisition & Disclosure of Communications Data

No applications for the disclosure of communications data were made during the above period.

3.13 RIPA Policy/Procedure

The Council is required to have a Policy/Procedure to govern how it will exercise its RIPA powers. This Policy/Procedure was revised and approved by Governance Committee last year and there is no need to make any changes to that policy at this time.

4. What options have been considered and what is the evidence telling us about them?

4.1 The Governance Committee is recommended to consider and note the Annual Compliance Report, which sets out how the Council has used its powers during the reporting periods of the individual Commissioners.

5. Reasons for recommending preferred option

5.1 The Council is required to have an up to date policy/procedure in order to exercise its powers.

6. Implications and Considerations

6.1 State how the proposals in this report contribute to the priorities in the [Council Plan](#):

| Priority: | Contribution: |
|---|---------------|
| Economy: <ol style="list-style-type: none"> 1. Revitalising our towns and local centres. 2. UK Central (UKC) and maximising the opportunities of HS2. 3. Increase the supply of housing, especially affordable and social housing. | None. |
| Environment: <ol style="list-style-type: none"> 4. Enhance Solihull's natural environment. 5. Improve Solihull's air quality. 6. Reduce Solihull's net carbon emissions. | None. |
| People and Communities: <ol style="list-style-type: none"> 7. Take action to improve life chances in our most disadvantaged communities. 8. Enable communities to thrive. 9. Sustainable, quality, affordable provision for adults & children with complex needs. | None. |

6.2 Consultation and Scrutiny:

6.2.1 There is no requirement to consult on this procedure.

6.3 Financial implications:

6.3.1 None as a direct result of this report.

6.4 Legal implications:

6.4.1 The Council is required to report the annual use of RIPA powers to governance committee.

6.5 Risk implications:

6.5.1 None as a direct result of this report.

6.6 Equality implications:

6.6.1 None as a direct result of this report.

7. List of appendices referred to

7.1 None

8. Background papers used to compile this report

8.1 None.

9. List of other relevant documents

9.1 None.