

Southend-on-Sea Borough Council

Agenda
Item No.

Report of Director of Legal and Democratic Services

to
Cabinet

on
20 June 2017

Report prepared by:

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Annual Report re the Regulation of Investigatory Powers Act 2000 (RIPA)

**Policy & Resources Scrutiny Committee –
Executive Councillor: Councillor Moring**

A Part 1 public agenda item

1. Purpose of Report

To report on the use of powers available to the Council under the Regulation of Investigatory Powers Act 2000 (“RIPA”) during the financial year 2016/17.

To provide an update on staff training on RIPA and Council procedures relating to the use of social networking sites.

2. Recommendations

- 2.1 To note that the Council has not used the surveillance powers available to it under RIPA between 1 April 2016 and the 31st March 2017 and neither has it used any covert human intelligence sources during this period.
- 2.2 To note that training on RIPA for relevant staff was carried out on 5th April 2017.
- 2.3 To note the guidance issued by the Office of Surveillance Commissioners (OSC) on to the use of social networking sites and how this is addressed at the Council.

3. Background to RIPA

- 3.1 If a Council wants to carry out directed covert surveillance then:
 - (a) It must be in connection with the investigation of a criminal offence which attracts a maximum custodial sentence of 6 months or more, or involves the underage sale of alcohol or tobacco;
 - (b) It must not be intrusive surveillance (only the Police can carry out intrusive surveillance inside a house or vehicle);

- (c) Such surveillance must be properly authorised internally. In particular authorising officers must be formally designated and trained – and only authorised and trained officers should carry out surveillance;
- (d) A Justice of the Peace must make an Order approving the grant of authorisation referred to in (c) above; and
- (e) There must be compliance with the Codes of Practice issued by the Home Office and Guidance issued by the OSC – and the Council’s own Policy & Procedures (see 3.3 below).

3.2 Similar requirements also apply if the Council wants to use a covert human intelligent source (CHIS).

3.3 In order to ensure that the Council acts legally and properly and complies with RIPA, it has put in place “*Policy and Procedures for undertaking Directed Covert Surveillance and the use of Covert Human Intelligence Sources*”.

Furthermore it important that Council officers who are, or could be, involved with surveillance receive proper training: In this regard training on RIPA for 25 relevant members of staff was carried out on 5th April 2017 and there was a particular focus on the interrogation of social media as this is a topical issue – see 3.5 and 3.6 below.

3.4 In 2010 pursuant to Section 71 of RIPA, the Home Office issued a revised Code of Practice ‘Covert Surveillance and Property Interference’. The Code provides that elected Members of a local authority should review the authority’s use of the 2000 Act [RIPA] and its Policy; hence the need for this report.

3.5 In August 2016 His Honour Brian Barker CBE, QC, an Assistant Surveillance Commissioner from the OSC, inspected the Council’s arrangements to ensure compliance with the statutory provisions which govern surveillance. The Council’s procedures were generally found to be in good order and a report was submitted to Cabinet on 8th November 2016 (minute 445 refers).

The OSC’s report did make 3 recommendations:

- (i) That minor amendments be made to the “*Policy and Procedures for undertaking Directed Covert Surveillance and the use of Covert Human Intelligence Sources*”. Such amendments were agreed by Cabinet on 8TH November 2016.
- (ii) That the Chief Executive should receive training so he can be an Authorising Officer. Mr Tinlin received such training, but it will be necessary to address this matter with the new Chief Executive when she takes up her post.

(iii) That Members are regularly updated about RIPA with the occasional targeted circulation of explanations of the potential uses of the tool and the care needed with the interrogation of social media.

3.6 With regard to recommendation (iii) referred to in 3.5 above, the OSC has recently emphasised the importance of compliance with the statutory requirements in terms of the use of social media sites and the internet and drawn attention to their guidance Note 289 - see **Appendix 1**

OSC guidance is incorporated in the Council's "*Policy and Procedures for undertaking Directed Covert Surveillance and the use of Covert Human Intelligence Sources*" which is available on the Council's website. Staff and Members also have access to additional material about RIPA on the intranet. As stated in 3.3 above, the recent training event for key staff had a particular focus on the interrogation of social media. In addition it is planned to review how social media is used across the Council.

4. Other Options

None

5. Reasons for Recommendations

To comply with the Home Office Codes of Practice and OSC Guidance on RIPA

6. Corporate Implications

6.1 Contribution to Council's Vision & Corporate Priorities

Excellent – Deliver targeted services that meet the identified needs of our community.

6.2 Financial Implications

None

6.3 Legal Implications

This report has been prepared to comply with Home Office and OSC Guidance on RIPA.

6.4 People Implications

None

6.5 Property Implications

None

6.6 Consultation

Internal only

6.7 Equalities and Diversity Implications

None

6.8 Risk Assessment

Having up to date RIPA Policy and Procedures and a staff training programme, ensures any risks associated with surveillance or use of a CHIS are minimised.

6.9 Value for Money

N/A

6.10 Community Safety Implications

N/A

6.11 Environmental Impact

N/A

7. Background Papers

None

8. Appendices

Appendix 1 - OSC Guidance Note 289