

Southend-on-Sea Borough Council

Report of Executive Director (Legal and Democratic Services)

To

Cabinet

On

15 September 2020

Report prepared by: John Williams and Tessa O'Connell

Agenda
Item No.

24

The Regulation of Investigatory Powers Act 2000 (RIPA)

Policy & Resources Scrutiny Committee

Cabinet Member: Councillor Gilbert

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 2019/2020.

To provide an update on staff training & awareness.

2. Recommendations

- 2.1 To note that the Council has used the surveillance powers available to it under RIPA on one occasion during the period 1 April 2019 – 31 March 2020.
- 2.2 To note that the Council has not used any covert human intelligence source (CHIS) during the period 1 April 2019 - 31 March 2020.
- 2.3 To note that Thurrock Council has not used any such powers on behalf of Southend-on- Sea Borough Council when undertaking Anti-Fraud work between 1 April 2019 and the termination of the Service Level Agreement between the two Authorities in October 2019.
- 2.4 To note the staff training undertaken in 2019/20 and proposed for 2020/21 in connection with RIPA.
- 2.5 To note details of the regulation of CCTV activities as detailed in the report.

3. Background

3.1 Directed Covert Surveillance and RIPA

If the 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.
- (e) There must be compliance with the Codes of Practice issued by the Home Office, the Investigatory Powers Commissioner's Office (IPCO) (formerly the Office of Surveillance Commissioners OSC) – and the Council's own Policy & Procedures (see 3.3 below).

3.2 CHIS and RIPA

Similar requirements to those set out in 3.1 above apply if the Council wants to use a covert human intelligent source (CHIS).

The requirement for the use of CHIS is that it relates to the prevention and detection of crime or disorder; there is no requirement for the offence to have a 6 month sentence.

3.3 Council Policy and Procedures for undertaking Directed Covert Surveillance and the use of a CHIS

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 (CHIS)*".

The Policy & Procedures are regularly updated to ensure they are fit for purpose and incorporate legislative, procedural and staff changes. The Policy & Procedures were subject to a major update in 2019, these being approved at Council on 24 October 2019.

3.4 Use of surveillance powers available under RIPA in 2019/20

The Council has used the surveillance powers available to it under RIPA on one occasion during the period 1 April 2019 – 31 March 2020. This was in connection with an investigation carried out by Regulatory Services.

The Council has not used any CHIS during the period 1 April 2019 - 31 March 2020

Thurrock Council has not used any such powers on behalf of Southend-on-Sea Borough Council when undertaking Anti-Fraud work between 1 April 2019 and the termination of the Service Level Agreement between the two Authorities in October 2019.

3.5 Training

It is important that Council officers who are, or could be, involved with surveillance receive proper training.

In 2019/20 a CHIS training session was held with 6 members of staff from Regulatory Services and the regular RIPA refresher training event is planned for 2020/21.

Mandatory training has been made available to all staff relating to Social Media Investigations with additional signposting to guidance on RIPA in July 2020.

3.6 CCTV

The Council's CCTV System helps to provide a safe and secure environment in the Town Centre and other parts of the town covered by the cameras. It therefore contributes to the continuing safety and vitality of those areas, for the benefit of all those living, working and visiting there.

The control room is manned twenty-four hours a day 365 days a year by Security Industry Authority (SIA) trained operators and is fully compliant with the guidelines laid down by IPCO and the Surveillance Camera Commissioner (SCC). However, it should be noted that overt CCTV does not require a formal RIPA authority.

In 2019 the control room was involved in 7713 incidents that were covered by CCTV which involved 704 arrests being made. This highlights the value of the CCTV System.

3.7 Oversight

The Investigatory Powers Commissioner's Office (IPCO) provides independent oversight of the use of investigatory powers by intelligence agencies, police forces and other public authorities.

The Council is subject to inspection by IPCO to ensure compliance with the statutory provisions which govern surveillance.

It is also important that councillors should review the Council's use of RIPA and its policies & procedures on an annual basis, hence the need for this report.

4. Other Options

None

5. Reasons for Recommendations

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

6. Corporate Implications

6.1 Contribution to Southend 2050 Road Map

Sound policies and procedures in respect of surveillance contribute to various aspects of the Southend 2050 Road Map, particularly the objective in Safe & Well that people in all parts of the Borough always feel safe and secure.

Such policies and procedures also demonstrate the importance which the Council attaches to good governance.

6.2 Financial Implications

None

6.3 Legal Implications

This report has been prepared to comply with Home Office and IPCO 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 the 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

None