

Southend-on-Sea Borough Council

Report of Executive Director (Legal and Democratic Services)

To

Cabinet

On

14th September 2021

Report prepared by: John Williams and Tessa O'Connell

Agenda
Item No.

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 2020/21.

To recommend minor amendments to the Delegation Scheme in Part 3 Schedule 3 of the Constitution.

To provide an update on staff training & awareness and CCTV activities.

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 2020 – 31 March 2021, but it has not used any covert human intelligence source (CHIS).

2.2 To recommend to Council that minor amendments be made to section 5.1 of the Delegation Scheme in Part 3 Schedule 3 of the Constitution as set out in section 3.3 of this report.

2.3 To note the staff training undertaken in 2020/21 and proposed for 2021/22 in connection with RIPA.

2.4 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. There is no need for any further changes for this year.

However, the following minor amendments are recommended to section 5.1 of the Delegation Scheme in Part 3 Schedule 3 of the Constitution for the purposes of clarification and to reflect current job titles:

5.1 Regulation of Investigatory Powers Act 2000

5.1.1 All Chief Officers, **the Head of Regulatory Services, the Head of Internal Audit and the Head of Community Safety** and the following the Group Managers in the Department for Place (Regulatory Services, Waste & Environmental Care and Partnership Manager, Community Safety) are Authorising Officers for directed surveillance or CHIS activity under the Regulation of Investigatory Powers Act 2000 provided they have received appropriate training and comply with the Council's RIPA Policies & Procedures. **(Note: Directed Surveillance and CHIS activity must also be authorised by the Magistrates' Court as required by the Protection of Freedoms Act 2012)**

5.1.2 Any Council Officer who has received appropriate training may carry out directed surveillance authorised under 5.1.1. Such Officer shall be known as an "Investigating Officer" and must comply with the Council's RIPA Policies and Procedures.

5.1.3 All Chief Officers, **the Head of Regulatory Services and the Head of Internal Audit** the Group Manager Regulatory Services (Place) and the Assistant Director for Crime, Fraud & Investigation (Finance & Resources) shall each act as Designated Person to submit applications to the National Anti-Fraud Network (NAFN) and to the Magistrates Court for Communications Data, provided they have received appropriate training and comply with the Council's RIPA Policies & Procedures.

3.4 Use of surveillance powers available under RIPA in 2020/2021

The Council has used the surveillance powers available to it under RIPA on one occasion during the period 1 April 2020 - 31 March 2021. This was in connection with an investigation carried out by Regulatory Services.

The Council has not used any CHIS during the period 1 April 2020 - 31 March 2021.

3.5 Training

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

In 2020/2021 training was provided via an online course on social media in the workplace with specific guidance on RIPA and the regular RIPA refresher training event is planned for 2021/22.

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 2020/21 the control room was involved in 5150 incidents that were covered by CCTV and some 535 arrests resulted. 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