

TEWKESBURY BOROUGH COUNCIL

Report to:	Audit Committee
Date of Meeting:	10 December 2014
Subject:	Regulation of Investigatory Powers (RIPA)
Report of:	Sara Freckleton, Borough Solicitor & Monitoring Officer
Corporate Lead:	Sara Freckleton, Borough Solicitor & Monitoring Officer
Lead Member:	Councillor Mrs J M Perez
Number of Appendices:	One

Executive Summary:

To update the Audit Committee on the inspection and report by Mr Neil Smart, Assistant Surveillance Inspector from the Office of Surveillance Commissioners (OSC), on the Council's arrangements for the use of the powers under the Regulation of Investigatory Powers Act 2000 (RIPA)

Recommendation:

To CONSIDER the findings and the recommendations within the Office of Surveillance Commissioners' report following the inspection on 3 February 2014 regarding the Councils arrangements for the use of RIPA.

Reasons for Recommendation:

To advise the Committee on the findings of the OSC

Resource Implications:

None

Legal Implications:

The Council may, where it is necessary and proportionate, need to undertake surveillance. RIPA provides a legal framework for the control and regulation of surveillance and information techniques which public authorities undertake as part of their duties. The Council's procedural guide will provide information and advice to those seeking authorisation and those officers granting authorisation. It will also provide the public with information about how the Council approaches the use of surveillance

Risk Management Implications:

None

Performance Management Follow-up:

None

Environmental Implications:

None

1.0 INTRODUCTION/BACKGROUND

- 1.1** The Regulation of Investigatory Powers Act 2000 (RIPA), and the Protection of Freedoms Act 2012, legislates for the use of local authorities of covert methods of surveillance and information gathering to assist in the detection and prevention of crime in relation to an authority's core functions.
- 1.2** The Council's use of these powers is subject to regular inspection and audit by the Office of the Surveillance Commissioner (OSC) in respect of covert surveillance authorisations under RIPA, and the Interception of Communications Commissioner (IOCCO) in respect of communications data. During these inspections, authorisations and procedures are closely examined and Authorising Officers are interviewed by the inspectors.
- 1.3** Following the OSC Inspection in August 2010, the Committee approved amendments to a revised corporate RIPA policy, which was implemented in 2013.
- 1.4** In addition the Council implemented further systems whereby the Council's Senior Responsible Officer (SRO) (Sara Freckleton) and the RIPA Co-ordinating Officer (Vikki Fennell) maintain a register on applications and approvals by Authorising Officers (AOs).
- 1.5** On 3 February 2014, the Assistant Surveillance Inspector of the OSC, Mr Neil Smart, accompanied by Mr Alex Drummond, visited the Council in order to inspect and review the Council's management of covert activities. The subsequent OSC Inspection Report, by cover letter dated 18 February 2014 was received by the Council from the Chief Surveillance Commissioner, Sir Christopher Rose. A copy of the Inspection Report is attached at Appendix 1.
- 1.6** The report notes the improvement of the Council's processes in the intervening period and congratulates the work done in relation to that development. However it also sets out a number of recommendations for further improvement which are dealt with in more detail below.

2.0 ISSUES, OPTIONS AND ANALYSIS OF OPTIONS

- 2.1** The report noted that, since the last inspection of the Council in August 2010, there have been no authorisations for directed surveillance and that there have been no authorisations for the use and conduct of a covert human intelligence source.
- 2.2** The Inspector noted that there were six recommendations made when the last inspections took place on the 9 August 2010. These recommendations were as follows:-
1. Create a RIPA management structure around the SRO and RIPA Co-ordinating Officer with each having the duties outlined in the Code of Practice for Covert

Surveillance and Property Interference

2. Reduce the number of authorising officers
3. Amend the 'Central Record of Authorisations'
4. Record all reviews on the appropriate Home Office form and within the Central Register of Authorisations
5. Address weaknesses identified in this and the previous inspection report by further training. Establish a training program
6. Amend the RIPA Covert Surveillance Procedure document and Assistance Notes

2.3 The Inspector was happy to discharge all of the six recommendations that arose out of the inspection in August 2010 (paragraphs 5.2 – 5.13 of the report).

2.4 Recommendations

Paragraph 6.2 and 7.4 of the Inspection Report makes recommendations as follows:

1. RIPA training should continue to be formally delivered by the Council to staff who are likely to engage the legislation to ensure it can be applied to the appropriate standard should it be required. This should be considered as ongoing professional development.
2. The Tewkesbury Borough Council Procedural Guide Regulation of Investigatory Powers Act 2000 should be further amended in accordance with paragraphs 7.4 a) to g) of the Inspection Report.

2.5 Implementation of Actions

The Procedural Guide has been amended to reflect the recommendations highlighted in the Inspection Report. Training will continue on a yearly basis and will be considered as ongoing professional development.

2.6 Conclusions

The Inspector noted at paragraph 10.1 of the Report "Tewkesbury Borough Council takes its responsibilities under this legislation seriously and there are systems and processes in place to use it effectively. Training has been conducted and it is appreciated that staff likely to sue the legislation require periodic training.....I would like to thank the staff from Tewkesbury Borough Council for their participation and positive approach to the inspection process".

3.0 OTHER OPTIONS CONSIDERED

3.1 None

4.0 CONSULTATION

4.1 One Legal has been in contact with the relevant departments affected by the changes set out in this report.

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 None

6.0 RELEVANT GOVERNMENT POLICIES

6.1 None

7.0 RESOURCE IMPLICATIONS (Human/Property)

7.1 None

8.0 **SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)**

8.1 None

9.0 **IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)**

9.1 None

10.0 **RELATED DECISIONS AND ANY OTHER RELEVANT FACTS**

10.1 None

Background Papers: None

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Appendices: Appendix 1 – RIPA Inspection Report