

TEWKESBURY BOROUGH COUNCIL

| | |
|------------------------------|---|
| Report to: | Audit Committee |
| Date of Meeting: | 21 September 2016 |
| Subject: | Regulation of Investigatory Powers Act 2000 |
| Report of: | Donna Marks, Solicitor |
| Corporate Lead: | Sara Freckleton, Borough Solicitor |
| Lead Member: | Councillor R J E Vines |
| Number of Appendices: | Two |

Executive Summary:

The Regulation of Investigatory Powers Act (RIPA) came into force in 2000. The Act allowed Councils to carry out covert surveillance of alleged offenders for the prevention and detection of crime. The Act also allowed the Council to apply to mobile phone companies, and other telecommunications providers, for information about individuals who are suspected of committing crimes. Compliance with RIPA ensures that the actions taken by the Council comply with the Human Rights Act 1998, in particular the right to privacy and the right to a fair trial, when evidence gathering in preparing cases for Court.

In accordance with the guidance issued by the Home Office to support the statutory Code of Practice, it is recommended that Councillors are involved in an annual review of RIPA policies. This is the annual report for 2016.

An external inspection was undertaken on 3 February 2014 and a further inspection is due to take place later this year.

Recommendation:

That the RIPA – Procedural Guide, attached to the report at Appendix 1, be **ENDORSED** and that the Social Media Policy, attached to the report at Appendix 2, be **APPROVED**.

Reasons for Recommendation:

Further to the Office of Surveillance Commissioners 'OSC' Report in 2014, there have been additional recommendations by the OSC that Councils should consider implementing a Social Media Policy/Procedure in order to carry investigations – this is due to the increasing internet traffic and use of social media network sites being used by traders, companies and individuals that may result in criminal activity.

Resource Implications:

None.

Legal Implications:

This report ensures that the Council complies with the guidance issued by the Home Office to support the Statutory Code of Practice in ensuring Member oversight of the use of the Council's surveillance powers. The Council may, where it is necessary and proportionate, 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 using the surveillance.

This report also addresses the recommendation by the OSC for Local Authorities/Districts to have a Social Media Policy. The purpose of such a policy is to monitor overtly activity that uses, for example: Facebook, Twitter, You Tube, for illegal/unlawful purposes. The full details of the Social Media Policy is set out in Appendix 2.

Risk Management Implications:

The Council is required to strictly follow and adhere to the Council's RIPA Policy and all associated Policies and Procedures.

Performance Management Follow-up:

Not applicable.

Environmental Implications:

Not applicable.

1.0 INTRODUCTION/BACKGROUND - THE COUNCIL'S PROCEDURES

- 1.1 The Council has a policy dealing with RIPA, for Surveillance and for Communications. The RIPA Policy is available via the Council's intranet site along with guidance materials and pro-forma application forms for use by Authorising Officers. Officers keep the policies under review and update them as and when required to ensure that the policies take account of all relevant changes in guidance.
- 1.2 It should be noted that obtaining a RIPA Authorisation is through the Magistrates Court and the use of these powers is on an exceptional basis.
- 1.3 The Committee last received a report on 10 December 2014 and no authorisations have been granted since that date.
- 1.4 Lead Members will also receive reports about any authorisations in accordance with the Council's policies at Committee on 21 September 2016. However at the time of preparing this report no RIPA authorisations have been made.

2.0 THE COVERT SURVEILLANCE AND COMMUNICATIONS POLICY

2.1 There has been no use of these powers since the last report to Members in December 2014.

2.2 The current RIPA Surveillance policy was last revised on 10 December 2014 and there are no changes proposed.

3.0 POLICY & PROCEDURES ON LAWFUL SURVEILLANCE

3.1 There have been no changes to undertaking lawful surveillance.

4.0 SOCIAL MEDIA POLICY

4.1 There has been a strong recommendation by the OSC to introduce a Social Media Policy, when seeking to undertake surveillance that uses Social Networking Sites 'SNS' such as Facebook, Twitter and using the internet.

A draft Social Media Policy has been drafted for Member approval which is attached at Appendix 2.

5.0 TRAINING

5.1 Officers are required to undertake annual training by an external accredited trainer to ensure that their practices and procedure are up to date.

Training is now being planned to take place in November 2016 for Authorising Officers. This is an annual session.

6.0 OTHER OPTIONS CONSIDERED

6.1 None.

7.0 CONSULTATION

7.1 All Authorising Officers/Designated Persons within the Council were consulted upon with the introduction of the Social Media Policy at Appendix 2. The Borough Solicitor, as the Senior Responsible Officer, was also consulted upon and has approved the introduction of a Social Media Policy, subject to Members approval.

8.0 RELEVANT COUNCIL POLICIES/STRATEGIES

8.1 None.

9.0 RELEVANT GOVERNMENT POLICIES

9.1 None.

10.0 RESOURCE IMPLICATIONS (Human/Property)

10.1 None.

11.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

11.1 There are no sustainability implications that arise as a direct result of this report.

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

12.1 The Council is reminded of its statutory duty, in the exercise of its functions, to have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act 2010.
- Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it; this means:-
 - removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
 - taking steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
 - encouraging persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- Foster good relations between persons who share a protected characteristic and persons who do not share it; this means:-
 - tackling prejudice.
 - promoting understanding.

13.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

13.1 None.

Background Papers: None.

Contact Officer: Donna Marks, Solicitor Tel: 01684 272068
Email: donna.marks@tewkesbury.gov.uk

Appendices: Appendix 1 - RIPA Policy.
Appendix 2 - Social Media Policy.