

Values and Ethics Sub Committee

28 September 2020



Report of: Director: Legal & Democratic Services

Title: Regulation of Investigatory Powers Act 2000 (RIPA)

Ward: Citywide

Officer presenting report: Director: Legal & Democratic Services

Recommendation

To note the report on the Council's use of the powers available to it under the Regulation of Investigatory Powers Act 2000 and the report of the Investigatory Powers Commissioner's inspection.

Summary

The Terms of Reference of the Values and Ethics sub-committee require the sub-committee to review the Council's use of the powers available to it under the Regulation of Investigatory Powers Act 2000 'RIPA'. RIPA sets out a regulatory framework for the use of covert investigatory techniques by public authorities. The Investigatory Powers Commissioner's Office 'IPCO' regulates RIPA and carries out regular inspections. The Council was the subject of an inspection in June 2020.



Policy

1. The Council's Regulation of Investigatory Powers Act 2000 Policy and Procedure is attached as Appendix A. This document sets out the policy and procedures adopted by Bristol City Council in relation to RIPA.

Consultation

Internal

2. Not applicable

External

3. Not applicable.

Context

4. RIPA sets out a regulatory framework for the use of covert investigatory techniques by public authorities that is likely to result in the obtaining of private information about a person. This includes directed surveillance, interceptions of private communications (eg phone calls and emails), and use of covert human intelligence sources.
5. RIPA does not include any specific provisions to empower Council officers to carry out covert activities. Rather, if such activities are conducted by council officers, then RIPA regulates them in a manner to ensure that the activity is compatible with the European Convention on Human Rights (ECHR), particularly Article 8 - the right to respect for private and family life.
6. RIPA requires any covert surveillance to be authorised in advance by a designated authorising officer and by the Magistrates' Court. Local authorities can only apply for RIPA authorisations to carry out covert surveillance for preventing or detecting a criminal offence which would be punishable by a prison sentence of at least six months or for age related sale of alcohol and tobacco or nicotine inhaling products.
7. Before applying for an authorisation under RIPA, officers need to consider the use of less intrusive methods. The authorisation lasts for a specified period and must be regularly reviewed and cancelled when no longer required. All RIPA applications, authorisations, reviews, renewals and cancellations are retained in one central record with auditable, unique reference numbers to be retained for five years. The central record is held by Legal Services.
8. In 2019/2020 Bristol City Council carried out surveillance authorised under RIPA twice. Details are set out in the 2019 RIPA Register in exempt Appendix B
9. The Council must appoint a Senior Responsible Officer for RIPA. This role is carried out by the Director: Legal and Democratic Services who has regular meetings with the RIPA Monitoring Officer to inspect the RIPA register and to maintain oversight of the use of the Council's RIPA powers. A RIPA training webinar together with template forms and guidance is available for all officers on the Source. In September 2019 external training was commissioned for all officers who might carry out surveillance including child protection and adult social workers as well as enforcement officers from Regulatory Services. Training will be arranged again in 2021.

10. On 4th June the IPCO inspector considered the RIPA central record and conducted a video interview with Senior Responsible Officer for RIPA and the RIPA Monitoring Officer. The inspector's report and measures taken thereafter to comply with the recommendations are detailed in exempt Appendix C. The information provided demonstrated a level of compliance that removed the requirement for a physical inspection.

Other Options Considered

11. None necessary.

Risk Assessment

12. Not applicable.

Legal and Resource Implications

Legal implications:

13. As above.

Financial:

14. Not applicable

Land/Property:

15. Not applicable.

Human Resources:

16. Not applicable.

Appendices:

Appendix A – Regulation of Investigatory Powers Act 2000 Policy and Procedure

Appendix B - EXEMPT

Appendix C - EXEMPT

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers: None