

**AUDIT AND GOVERNANCE COMMITTEE**

**26 April 2019**

**REGULATION OF INVESTIGATORY POWERS ACT**

**Joint report of the Director of People, Communications and Partnerships and  
Assistant Director of Law and Governance**

**1. Purpose of Report**

- 1.1 The purpose of this report is to seek comments of the Committee on the Council's Guidance to Staff on the Regulation of Investigatory Powers Act 2000 ('RIPA').

**2. Background**

- 2.1 The Act regulates public services, including local authorities, in their conduct of directed surveillance and use of covert human intelligence sources. Members may recall that there was at one time a degree of controversy reported in the media regarding exercise of local authority powers under RIPA, e.g. in relation to surveillance of school attendance.
- 2.2 Subsequent changes introduced by the Protection of Freedoms Act 2012 amended RIPA to make local authority authorisations subject to judicial approval. The amendment means that all authorisations must be made in writing and require JP approval, and local authorities are no longer able to orally authorise the use of RIPA techniques.
- 2.3 The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources)(Amendment) Order 2012 introduced a new 'serious crime test' meaning that local authorities can only authorise use of directed surveillance to prevent or detect criminal offences that would be punishable by a maximum term of at least 6 months imprisonment. Local authorities do, though, also remain able to authorise surveillance in relation to offences concerning the underage sale of alcohol, tobacco and nicotine-inhaling products.
- 2.4 The RIPA regime applies only where investigations cannot be made without covert surveillance activity. The Council has made maximum use of overt investigation techniques, as is recommended best practice and has not authorised covert activity under RIPA powers since 2012. The last authorisation was granted on 31/10/2012 – the last in a series involving the investigation of

fraudulent insurance claims against the Council. Six out of the nine authorisations granted for the whole year were in support of this investigation.

### **3. Guidance for Staff**

- 3.1 The guidance has been updated to reflect the changes in council structures and responsibilities which came into effect from 1 April 2019.
- 3.2 The guidance document takes account of the requirements of the most recent Codes of Practice produced by the Secretary of State.
- 3.3 Changes to the Codes include additional guidance on;
  - Internet material and investigations, social media and internet research.
  - The role of the Senior Responsible Officer.
  - Use of tracking devices, drones etc.
  - CCTV and ANPR.
  - Expanded guidance on necessity and proportionality.
- 3.4 The updated guidance document is attached for Members' review at Appendix A.

### **4. Recommendations**

- 4.1 The Committee is asked to consider and provide its comments on the report and guidance.