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Audit and Procurement Committee

15 February 2016

Cabinet Member for Culture, Leisure, Sports and Parks

25 February 2016

**Name of Cabinet Member:**

Cabinet Member for Culture, Leisure, Sports and Parks – Councillor A Khan

**Director Approving Submission of the report:**

Executive Director of Place

**Ward(s) affected:**

None

**Title:**

Annual Compliance Report - Regulatory & Investigatory Powers Act (RIPA)

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**Is this a key decision?**

No

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**Executive Summary:**

The Regulation of Investigatory Powers Act 2000 (RIPA) Part 1 covers the acquisition and interception of communications data, and Part 2 covers covert surveillance and property interference. Each part of the Act is regulated by separate commissioners.

The Council's use of RIPA is to support its core functions for the purpose of prevention and detection of crime where an offence may be punishable by a custodial sentence of 6 months or more, or are related to the underage sale of alcohol and tobacco. We determine this by reference to the legislation covering the surveillance e.g. The Trade Marks Act relates to counterfeit goods and has a penalty of up to 10 years imprisonment. The three types of technique available to local authorities are: the acquisition and disclosure of communications data (such as telephone billing information or subscriber details); directed surveillance (covert surveillance of individuals in public places); and covert human intelligence sources ("CHIS") (such as the deployment of undercover officers).

The Act sets out a compliance structure within which Coventry City Council can request judicial approval to use directed surveillance techniques or acquire communications data in order to support core function activities (e.g. typically those undertaken by Trading Standards, Environment Health and Benefits). The information obtained as a result of such operations can later be relied upon in court proceedings providing RIPA is complied

with.

The Home Office Code for Covert Surveillance Property Interference recommends that elected members, whilst not involved in making decisions or specific authorisations for the local authority to use its powers under Part II of the Act, should review the Council's use of the legislation and provide approval to its policies for same. The Council adopted this approach for oversight of the authority's use of Part I of the Act.

There has been no material change in the legislation since the September 2014 report.

**Recommendations:**

The Audit and Procurement Committee are requested to:

1. Consider and note the Council's use and compliance with RIPA.
2. Forward any comments and/or recommendations to the Cabinet Member for Culture, Leisure, Sports and Parks

The Cabinet Member for Culture, Leisure, Sports and Parks is requested to:

1. Consider any comments and recommendations provided by the Audit & Procurement Committee.
2. Approve the report as a formal record of the Council's use and compliance with RIPA.

**List of Appendices included:**

Nil

**Other useful background papers:**

Nil

**Other useful background information:**

Nil

**Has it been or will it be considered by Scrutiny?**

No

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

Yes – Audit and Procurement Committee – 15 February 2016

**Will this report go to Council?**

No

Report title: **Annual Compliance Report - Regulatory & Investigatory Powers Act (RIPA) 2000**

**1. Context (or background)**

- 1.1 Part I of RIPA, Acquisition of Communications Data, is regulated by the Interception of Communications Commissioner's Office (IOCCO). Part II of RIPA, Covert Surveillance & Property, is regulated by the Office of Surveillance Commissioners (OSC). The Council is required to submit an annual statement to each Commissioner on the number of applications granted.
- 1.2 Each Commissioner has the authority to undertake an inspection of the Council's records, policies and procedures in order to enable public authorities to improve their understanding and conduct of RIPA activities.
- 1.3 The 2013 OSC and 2014 IOCCO inspections did not raise any significant concerns.
- 1.4 Chapter 2 of Part 2 of The Protection of Freedoms Act 2012 (PFA) amended RIPA in so much that local authorities need to obtain magistrate's approval prior to using any one of the three covert investigatory techniques available to them under RIPA, namely: directed surveillance, the deployment of a covert human intelligence source (CHIS) and accessing communications data. Approval is also required if an authorisation to use such techniques needs to be renewed. In each case, the role of the magistrate is to ensure that the correct procedures have been followed and the appropriate factors have been taken into account. All applications and authorisations detailed in this report were approved by the magistrates.

**2. Options considered and recommended proposal**

- 2.1 The Audit and Procurement Committee is recommended to consider and note the Annual Compliance Report, which sets out how the Council has used its powers during the reporting periods of the individual Commissioners and that there have been no further changes in the legislation that would require the Council's policy to be amended. In addition, the Committee is recommended to forward any comments or recommendations to the Cabinet Member for Culture, Leisure, Sports and Parks.
- 2.2 The Cabinet Member for Culture, Leisure, Sports and Parks is recommended to consider any comments or recommendations from the Audit and Procurement Committee, approve the report as a formal record of the Council's use and compliance with RIPA and note that the existing policy remains fit for purpose.
- 2.3 Use of Covert Surveillance or Covert Human Intelligence Sources

For the Period 1 April 2014 – 31 March 2015 – As reported to the OSC in April 2015

No. of Directed Surveillance Applications Rejected	0
No. of Directed Surveillance Applications Granted	6

No. of Authorisations Presented to Magistrates	6
No. of Authorisations Granted by Magistrates	6
No. of Authorisations Rejected by Magistrates	0
No. of Directed Surveillance Operations Remaining Extant	3

- All of the requests covered core functions permitted by the Act and were for the purpose of preventing and detecting crime.
- There were no reported instances of the Council having misused its powers under the Act.

#### 2.4 Use of Acquisition & Disclosure of Communications Data

For the Period 1 January 2014 – 31 December 2014 – As reported to the IOCCO in January 2015.

No. of Notices Requiring Disclosure of Communications Data	0
No. of Authorisations to Acquire Communications Data	7
No. of Applications Submitted to a Designated Person for communications data which were rejected	0
No. of Authorisations and Notices processed by NAFN	7

- All of the requests covered core functions permitted by the Act and were for the purpose of preventing and detecting crime.
- There were no reported instances of the Council having misused its powers under the Act.

For the Period 1 January 2015 – 31 December 2015

No applications for the disclosure of communications data was made during the period 1 January 2015 – 31 December 2015.

#### 2.5 RIPA Training

While no training was provided in 2015, a RIPA awareness session was held in June 2014. Elected members, magistrate's personnel and Council Officers from core function departments, HR, Legal and those who play a key role in implementing and/or managing CCTV systems were invited.

There is no requirement to provide training on an annual basis.

### **3. Results of consultation undertaken**

3.1 Not applicable

### **4. Timetable for implementing this decision**

4.1 Upon approval of the report, statistical information relating to the authority's use of RIPA will be published to the Council's Internet page in order to support its commitment to the openness and transparency agenda.

### **5. Comments from Executive, Resources**

5.1 **Financial implications** – The Council has budget provision to cover the cost of the training, which is delivered by an external trainer who specialises in RIPA legislation. There are no other direct financial implications arising from this report.

5.2 **Legal implications** – There are no new changes to the RIPA provisions introduced by The Protection of Freedoms Act 2012 and The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012, which amended the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010, SI 2010/521.

Consideration and endorsement by Members ensures that appropriate scrutiny is in place. Consideration of RIPA activity as recommended by the OSC guidance ensures that such activity is subject to appropriate scrutiny and control.

### **6. Other implications**

While the changes in law introduced an additional step into the process, given the Council's low use of its powers under RIPA, it has not resulted in any significant delays for planned operations. Routine patrols, observation at trouble 'hot spots', immediate response to events and overt use of CCTV do not require RIPA authorisation.

#### **6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?**

As and when judicial approval is sought to use these powers, it will help support the Council's core aims by preventing and detecting crime associated with enforcement activities such as: investigations relating to counterfeiting and fraudulent trading activity, or underage sales of alcohol or tobacco.

#### **6.2 How is risk being managed?**

The requirement for the Council to seek judicial approval for any proposed use of its powers under the Regulation of Investigatory Powers Act 2000, as amended by the Protection of Freedoms Act 2012, reduces the risk of the Council using such powers inappropriately or unlawfully. This will help ensure any evidence gained from such use will be admissible in a court of law.

### 6.3 What is the impact on the organisation?

There is no additional impact on the Council.

### 6.4 Equalities / EIA

When submitting a request for authorisation to use RIPA, or the use of a Covert Human Intelligence Source, consideration is given to any impact on equalities.

### 6.5 Implications for (or impact on) the environment?

There are no implications on the environment.

### 6.6 Implications for partner organisations?

There are no implications on partner organisations.

#### Report author(s):

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Members: Councillor A Khan	Councillor	Coventry City Council		

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