

REPORT TO	ON
Governance Committee	19 January 2021



TITLE	REPORT OF
RIPA Update	Director of Governance and Monitoring Officer

Is this report confidential?	No
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PURPOSE OF THE REPORT

1. To provide a brief update to members on the council's use of its powers under the Regulation of Investigatory Powers Act 2000 (RIPA).

RECOMMENDATIONS

2. That Members should note the report

REASONS FOR RECOMMENDATIONS

3. The reason for the report is simply to update members

OTHER OPTIONS CONSIDERED AND REJECTED

4. An annual update report is generally considered to constitute good practice

CORPORATE OUTCOMES

5. The report relates to the following corporate priorities:

An exemplary council	X	Thriving communities	
A fair local economy that works for everyone		Good homes, green spaces, healthy places	

BACKGROUND TO THE REPORT

6. RIPA – amongst other things – provides the legislative framework within which covert surveillance operations must be conducted in order to ensure that investigatory powers are used in accordance with human rights.

DETAILED CONSIDERATIONS

- 7.** There are two main ways a council may carry out surveillance activity under the authority of RIPA. Firstly it may carry out directed covert surveillance – this is surveillance carried out in a manner calculated to ensure that the person the subject of the surveillance is unaware it is or may be taking place. Secondly it may make use of a Covert Human Intelligence Source – in the main this is something that the Police make use of, very rarely councils.
- 8.** For a number of years after RIPA came into force (in the year 2000) the council – like most other councils – did make some use of its RIPA powers. This was primarily directed covert surveillance. Such powers were used sparingly. An example where we used such powers was when we were investigating noise complaints about residential properties.
- 9.** However, we have not used our RIPA powers for many years now. This is typical of many district councils. The last recorded use was in 2008.
- 10.** The principal reason why we have not used our RIPA powers in recent years is that there was a change in legislation. The threshold to authorise the use of such powers was raised. Essentially the council can only use directed covert surveillance for the purpose of preventing or detecting crime. Further the offence in question must attract a potential custodial sentence of at least 6 months or involve the sale of alcohol or tobacco to minors. In addition judicial authority is now required prior to the use of such powers. In passing the vast majority of offences that a district council may investigate do not attract a custodial sentence of more than six months.
- 11.** The change of legislation forced councils to change their practices. For example in the case of monitoring a noise complaint we would typically now write to the household concerned telling them that we are aware of a potential issue and we will be monitoring – in other words we make the surveillance overt.
- 12.** So for the sake of clarity members should be aware that we have not used our RIPA powers in the last 12 months. Members should also be aware though that if we are investigating a potential offence of sufficient seriousness then consideration could still be given to the use of RIPA powers if considered appropriate, proportionate and necessary.
- 13.** Committee should note that during the last year we were subject to an inspection of our RIPA regime by the Investigatory Powers Commissioner's office. This was an inspection carried out via email and over the telephone – the COVID situation prevented any in person inspection. The Commissioner raised no issues of concern in his letter dated 26th of June 2020. Of our RIPA policy the Commissioner stated: "It provides sound guidance and advice for staff and includes sections on the use of social media and the correct handling and destruction of material acquired by means of covert activity."
- 14.** It was agreed with the Commissioner that refresher training should be provided to relevant staff. This will be arranged via an external trainer in conjunction with Chorley Borough Council. In normal circumstances this training would have been provided by now – this will be sorted out once the COVID situation improves.
- 15.** Minor changes will be required to the RIPA policy to reflect the recent changes in management structure. This will be resolved within the immediate future.

RISK

16. There are no adverse risk considerations arising from this.

EQUALITY AND DIVERSITY

17. Not relevant to this report.

AIR QUALITY IMPLICATIONS

18. There are no Air Quality Implications arising from the report.

COMMENTS OF THE STATUTORY FINANCE OFFICER

19. There are no financial implications arising from this report.

COMMENTS OF THE MONITORING OFFICER

20. There are no concerns from a Monitoring Officer perspective – the legal considerations are set out in the body of the report.

There are no background papers to this report

There are no appendices

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