

READING BOROUGH COUNCIL

REPORT BY ASSISTANT DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

TO:	POLICY COMMITTEE		
DATE:	18 NOVEMBER 2019		
TITLE:	REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) UPDATE ON THE USE OF RIPA		
LEAD COUNCILLOR:	CLLR EMBERSON	PORTFOLIO:	CORPORATE AND CONSUMER AFFAIRS
SERVICE:	LEGAL AND DEMOCRATIC SERVICES	WARDS:	BOROUGHWIDE
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1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 To update the Policy Committee on the use of the Regulation of Investigatory Powers Act 2000 (RIPA) during the 2018/2019 financial year.

2. RECOMMENDED ACTION

2.1.1 The Policy Committee are requested to note:

- a) the Council's use of covert surveillance powers in the period April 2018 to March 2019.
- b) the Council's policy on the use of the Regulation of Investigatory Powers Act 2000 at Appendix A.

3. POLICY CONTEXT

- 3.1 The use of RIPA to conduct covert surveillance in appropriate instances supports many of the Council's enforcement and anti-fraud policies. The Investigatory Powers Commissioner's Office (IPCO) is the body responsible for overseeing the use of investigatory powers by public authorities. It promotes continuing awareness for elected Members and suggests they consider reports on the use of RIPA to ensure that its use is consistent with the Council's Policy and that the Policy remains fit for purpose.
- 3.2 RIPA, and its accompanying Code of Practice set out the requirements for undertaking covert surveillance. All applications for RIPA have to be considered and approved by specified trained authorised officers within the Council. The application and authorisation are then presented to the

Magistrates Court for final approval. Surveillance cannot take place until the Magistrate has granted authorisation.

- 3.3 The Council's RIPA Policy describes the legislation relating to covert law enforcement techniques and the procedures to be followed in using those techniques. Detailed guidance is available to officers who undertake covert surveillance using RIPA. Officers who may carry out investigations requiring RIPA authorisation, and those who authorise it (designated officers) are also required to undertake training.
- 3.4 The Council's use of RIPA is subject to external scrutiny in the form of inspections by the Investigatory Powers Commissioner's Office (IPCO). These generally take place every three years. Reading Borough Council was last inspected in January 2017.
- 3.5 As the Senior Responsible Officer, the Assistant Director of Legal and Democratic Services has overall responsibility for the Council's use of RIPA.

4. THE PROPOSAL

- 4.1 The Council has broad statutory functions and takes appropriate enforcement action in relation to those functions. There may be circumstances in the discharge of these functions when it is necessary for the Council to use RIPA for the purpose of preventing crime or disorder.
- 4.2 To date, the Council has made infrequent use of RIPA and recognises that there are usually less intrusive methods of obtaining information. The Council will continue to adopt this approach where possible.
- 4.3 The information in the table below outlines the RIPA authorisations granted by the Magistrates Court during 2018/19. No applications were refused and no applications were made for Communications Data or for Covert Human Intelligence Sources (CHIS).

Month	Directed Surveillance	Purpose
August 2018	1	Test purchases (Reading Festival)
February 2019	1	Test purchases (Sale of alcohol to underage persons)

5. CONTRIBUTION TO STRATEGIC AIMS

- 5.1 A review by Members of the Council's use of its powers under RIPA assists in ensuring that the Council does not misuse its powers and generally helps to promote resident's confidence in the Council.

6. COMMUNITY ENGAGEMENT AND INFORMATION

- 6.1 The effective and lawful use of RIPA supports the community safety and crime and disorder activities undertaken by the Council.

7. EQUALITY IMPACT ASSESSMENT

7.1 There are no equality implications arising from this report.

8. ENVIRONMENTAL IMPLICATIONS

8.1 There are no environmental implications arising from the Council's use of the Regulation of Investigatory Powers Act 2000.

9. LEGAL IMPLICATIONS

9.1 Under normal circumstances, surveillance of individuals for the purpose of establishing whether they may be involved in unlawful activities could give rise to a breach of their Article 8 right to privacy under the European Convention on Human Rights. The purpose of RIPA is to provide in law, an absolute (but subjective) defence to a potential breach of Article 8 in cases where in specific circumstances limited intrusion for the purposes of prevention or detection of crimes which meet the required threshold can be justified. Part of this is establishing policies on how and when the Council will use RIPA, following the Codes of Practice issued by the Home Office in doing so.

10. FINANCIAL IMPLICATIONS

10.1 There are no specific financial implications relating to this report. However, a failure by the Council to exercise its powers appropriately and in accordance with the law could result in legal challenge and possibly a claim for damages.

11. BACKGROUND PAPERS

11.1 None.