



Meeting: Audit Committee

Date: 23rd September 2015

Wards Affected: All

Report Title: Regulation of Investigatory Powers Act 2000

Is the decision a key decision? No

When does the decision need to be implemented? N/A

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1. Background

- 1.1 Torbay Council in its role as a Local Authority may wish to undertake an investigation under the Regulation of Investigatory Powers Act (RIPA) 2000.
- 1.2 RIPA 2000 regulates the use and method of surveillance which is carried out by public authorities. A Council is a public authority under RIPA 2000. A public authority may carry out covert surveillance where this surveillance is directed and not intrusive.
- 1.3 This report is to update members on any current RIPA authorisations and to bring forward the action from the meeting of 29th July 2015 where Members requested evidence of the authorisations used by the Council in relation to communications data and the use of National Anti Fraud Network (NAFN) as single point of contact.
- 1.4 Torbay Council has not currently undertaken any main RIPA authorisation since 2008 it is however necessary to ensure that all Members and staff are kept aware of the requirements of RIPA should the need arise.
- 1.5 This report will also outline the changes in the role of the RIPA Co-ordinator due to the Information Governance function and roles changing as of 26th October 2015.

2. Introduction

- 2.1 The Audit Committee are presented with the information as mentioned below regarding use of RIPA for investigations as asked for in the Committee meeting of 29th July 2015.

2.2 One of the roles of the Council in terms of its obligations towards RIPA takes into account the use of Communications data.

3. Communications Data

3.1 The Protection of Freedoms Act 2012 and RIPA (Directed Surveillance and Covert Human Intelligence Sources)(Amendment) Order 2012 came into effect on 1 November 2012. The Act and regulations made a number of changes to the Council's powers to undertake surveillance using RIPA.

3.2 From 1 November 2012 the council has not been able to use RIPA to investigate matters relating to anti social behaviour and can only carry out covert directed surveillance if the criminal offence under investigation is punishable by at least 6 months imprisonment, or where an offence is thought to have been committed under Sections 146, 147 or 147A of the Licensing Act 2003 for under age sales of alcohol, and the offence of under age sales of tobacco.

3.3 In addition the use of directed surveillance and/or the acquisition of communications data using RIPA now needs to be authorised by a Justice of the Peace before it can take effect.

3.4 All officers who use RIPA were made aware of these changes and the council's policy on the use of RIPA was amended accordingly. The Council does need to authorise post holder to apply to the Magistrates Court for approvals to use directed surveillance and communications data under section 223 of the Local Government Act 1972 as these are court proceedings.

3.5 RIPA allows the council to acquire communications data where it is to investigate any of the matters referred to in paragraph 3.2 above. To date the council has made use of it on a number of occasions. The Council needs to have a dedicated SPOC or single point of contact. The Council subscribes to the National Anti Fraud Network (NAFN) and they provide a legally compliant RIPA telecommunications service. All NAFN intelligence officers are accredited SPOCS under RIPA. They ensure requests are legally compliant and conform to codes of practice, the council makes use of this service rather than training its own officers to be a SPOC. The council still needs to have it's own designated person for communications data and this will now be Anne-Marie Bond, Assistant Director Corporate and Business Services. Caroline Taylor, Director of Adult Services is the Senior Reporting Officer.

3.6 The Council is also externally audited by the Office of the Interception of Communications Commissioner (OICC). An inspection was undertaken by the inspector of the OICC in June 2013 of NAFN and the report was entirely satisfactory.

3.7 The table below shows the use of NAFN as SPOC for investigations since the year 2011/2012.

Financial Year	RIPA led to a successful prosecution, caution, or fixed penalty notice	Department	Purpose
2011/12	No	Community Safety	The prevention and detection of crime or preventing disorder S22 (2)(b). Using NAFN, communication data is sought due to potential offences under the Consumer Protection from Unfair Trading Regulations 2008 regarding asbestos removal.
	No	Community Safety	The prevention and detection of crime or preventing disorder S22 (2)(b). Using NAFN, communication data is sought due to potential offences under the Consumer Protection from Unfair Trading Regulations 2008 regarding asbestos removal. This is a further enquiry seeking additional information from application above.
	No, but the facebook page was removed and a warning issued	Community Safety	The prevention and detection of crime or preventing disorder S22 (2)(b). Using NAFN, communication data is sought due to potential offences under the Trades Mark 1994 regarding counterfeit products on Facebook.
2013-14	Investigation legal file written.	Community Safety	The prevention and detection of crime or preventing disorder S21 (4)(c). Using NAFN, communication data is sought due to potential offences under Section 2 Fraud Act 2006 (fraud by false representation)
2014-15	No	Community Safety	The prevention and detection of crime or preventing disorder S22 (2)(b). Using NAFN, communication data is sought due to potential offences under the Road Traffic Act 1988 for the sale of an unroadworthy car.

4. Moving forward

- 4.1 The Information Governance Lead is leaving the Council on the 23rd October, the role will be altered and will be moving from Customer Services to the Corporate and Business Services section. Once the new RIPA Co-ordinator has been decided the committee will be informed.