



Meeting: Audit Committee

Date: 26 July 2017

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 As a Local Authority, Torbay Council 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 It is important to note that while the Council has not undertaken any main RIPA authorisations since 2008, we need to ensure that our RIPA policies and procedures are kept up to date and that they take into account any changes in national guidance. As such our operational policies and procedures in relation to RIPA have been updated and reviewed following the release of Procedures and Guidance issued by the Office of Surveillance Commissioners in July 2016.

2. Introduction

- 2.1 The Audit Committee are presented with information below regarding use of RIPA for investigations and the policy review which has been undertaken in relation to the Council's operational RIPA policies and procedures.
- 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. Authorisations

- 3.1 The Council has not undertaken any authorisations under RIPA for Directed Surveillance or for a Covert Human Intelligence Source (CHIS) since 2008.
- 3.2 The council has undertaken two authorisations for the acquisition for Communications data through NAFN in 2016/17, both relating to the same investigation.
- 3.3 Following the move of the Council's Trading Standards department to Devon County Council, it is expected that the number of authorisations for RIPA will continue to be minimal.

Financial Year	RIPA led to a successful prosecution, caution, or fixed penalty notice	Department	Purpose
2016/17	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, Fraud Act 2006, and the Insolvency Act 1986.
2016/17	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, Fraud Act 2006, and the Insolvency Act 1986.

4. Policy Review

- 4.1 In July 2016 the Office of Surveillance Commissioners released updated procedures and guidance for surveillance conducted by public authorities. Following this release the Council's operational policies and procedures in relation to RIPA authorisations have been reviewed and updated.
- 4.2 The main update to our local policy and procedure relates to the use of Social Networking Sites for surveillance. It is recognised that the use of the internet, and in

particular, social networking sites, can provide useful information for council staff in carrying out investigations. However, the use of social networking sites to gather information for an investigation may fall within the definition of 'covert directed surveillance'.

- 4.3 The use of social networking sites to gather information may, for example, fall within the definition of 'covert directed surveillance' if viewing a profile is repeated or if an officer 'becomes friends' with an individual on a site. It is important for staff to recognise that even though individuals may publish information publically, our viewing of that information may still be 'covert' and 'directed'. As such to view material published on a social network site a RIPA authorisation may be required.
- 4.4 Our updated policies and procedures will form the basis of a revised training programme for key applicant and authorising officers across the Council, as well as Elected Members.