

Regulation and Review Committee

Thursday, 21 October 2021

Present: Councillor T Mulvenna (Chair)
Councillors L Bartoli, T Brady, D Cox, C Davis, J Mole,
J O'Shea, P Oliver, A Percy and J Wallace

Apologies: Councillors S Brockbank, B Burdis, J Cruddas,
G Madden, M Madden and J Stirling

RQ14/21 Appointment of Substitute Members

There were no substitute members reported.

RQ15/21 To receive any Declarations of Interest and Notification of any Dispensations Granted

There were no declarations of interest or dispensations reported.

RQ16/21 Minutes

Resolved that the minutes of the meeting of Regulation and Review Committee held on 22 October 2020 be confirmed as a correct record.

RQ17/21 Annual Review of Council Policy on Covert Surveillance

The Committee received a report in relation to the Annual Review of Council Policy on Covert Surveillance. In accordance with the Codes of Practice applying to the Regulation of Investigatory Powers Act 2000 (RIPA) the Authority's Policy was subject to annual review. A copy of the draft policy was appended to the report.

RIPA placed covert surveillance on a statutory basis and enabled certain public authorities, including local authorities, to carry out surveillance operations with statutory protection from legal challenge. This protection was often referred to as the "RIPA shield". RIPA provisions could only be used to authorise surveillance activities to detect and prevent serious crime and the two authorising officers of the Authority were required to seek judicial approval from the Magistrates' Courts before any surveillance was undertaken.

The Members were informed that three covert techniques were available to local authorities under RIPA:

- The acquisition and disclosure of communication data such as telephone billing information or subscriber details e.g. to tackle rogue traders

- Direct surveillance – covert surveillance of individuals in public places e.g. to tackle criminal activity arising from anti-social behaviour; and
- Covert human intelligence sources such as deployment of undercover officers.

Members were informed that the Authority's current Surveillance Policy was approved by Cabinet in November 2020. The Policy had recently been subject to a review and no amendments (save for minor typographical corrections) had been proposed as the Policy remained fit for purpose.

Regulation and Review Committee were requested to consider the draft policy and to recommend the Policy to Cabinet for consideration on 29 November 2021.

The aims of the Authority's policy were to ensure:

- Compliance with RIPA; the relevant Codes of Practice and guidance issued by the Home Office; and guidance from the Investigatory Powers Commissioner's Office (IPCO);
- Give effect to the rights of citizens to respect for their private and family lives; and
- Protect the Authority from legal challenge when undertaking surveillance.

It was noted that the Codes of Practice indicated that, in addition to an annual review of the general surveillance policy, a local authority should consider internal reports on the use of RIPA at least quarterly to ensure that it was being used consistently in compliance with the Authority's policy. It was explained that since 1 November 2012 there had been no authorisations granted and no report other than the annual review to the Committee had been required. Should an authorisation be granted it would be reported to the next available meeting of the Committee to ensure the requirements for elected member oversight of the use of the Authority's RIPA powers had been discharged.

The Committee was informed that organisations using RIPA are subject to regular inspection by the Investigatory Powers Commissioner's Office (IPCO). The Authority received a virtual online inspection visit from the IPCO on 7 September 2020. The purpose of the inspection was to examine the policies, procedures, operations and administration the Authority had in place in relation to the use of directed surveillance and covert human intelligence sources. The outcome of the inspection was very supportive of the Authority's actions to manage its responsibilities under RIPA.

As part of the inspection, a small number of recommendations were made, including one in relation to training, specifically that the Authority undertakes, as it had in previous years, a training and familiarisation process for Officers who may use covert surveillance as a part of their role. The training would be delivered by officers from Law and Governance. A training module had also been developed and would be made available on the Learning Pool.

It was **agreed** to note the report and recommend the proposed Policy to Cabinet for adoption.