

## REPORT TO STANDARDS COMMITTEE

**TO BE HELD ON  
25 MARCH 2021**

Corporate Priority: ALL	Key Decision	NO
	Forward Plan Ref No	N/A
	Cabinet Portfolio Holder	Cllr J Jefferson

### REPORT OF THE DIRECTOR (LD) – 21/53

**WARDS AFFECTED: ALL**

**SUBJECT: RIPA ANNUAL REVIEW 2019/20 and 2020/21**

#### RECOMMENDATION(S):

That Standards Committee note the content of this report.

#### REASON FOR RECOMMENDATION(S):

To inform the Standards Committee about any instances of directed surveillance, the use of covert human intelligence sources (CHIS), or the acquisition and disclosure of communications data authorised under the Regulation of Investigatory Powers Act 2000 (RIPA) during 2019/2020 and 2020/21.

#### HIGHLIGHTED RISKS

None

#### 1. INTRODUCTION:

- 1.1 In undertaking its functions the Council must comply with the Human Rights Act 1998 (HRA). Article 8 of the HRA sets out the right to respect for private and family life. This is a qualified right and in certain circumstances interference can be justified (as explained within Article 8 itself).
- 1.2 The Regulation of Investigatory Powers Act 2000 (RIPA) provides a statutory framework under which the Council may seek authorisation to lawfully interfere with this right.

#### 2. CORPORATE AIMS/PRIORITIES

2.1 This report supports all of the Council's corporate aims.

### **3. BACKGROUND AND ISSUES**

3.1 Authorisation can only be granted where interference is:

- (a) in accordance with the law;
- (b) necessary; and
- (c) proportionate.

3.2 Under RIPA the Council may seek authorisation to permit directed surveillance, the use of covert human intelligence sources (CHIS), and the acquisition and disclosure of communications data.

3.3 The Council's use of RIPA is tightly controlled. All authorisations are subject to approval by the Magistrates' Court, and the use of directed surveillance is only permitted for the purpose of:

- (a) the prevention or detection of criminal offences (at least one of which must be punishable by a maximum of at least 6 months imprisonment);
- (b) disorder involving at least one criminal offence (that is punishable by a maximum of at least 6 months imprisonment); or
- (c) prescribed offences relating to the underage sale of alcohol and tobacco.

3.4 This report provides covers 2019/20 and 2020/21. Whilst the Council's annual RIPA compliance report for 2019/20 was published as part of the agenda for this Committee in March 2020, Members will be aware that the committee was cancelled due to the COVID-19 pandemic.

### **4. CONSULTATION**

4.1 Not applicable.

### **5. ASSESSMENT**

5.1 There have been no formal applications for RIPA authorisation during the period in question. This is a continuation of previous practice in that there have been no RIPA applications or authorisations since 2012.

5.2 This not only reemphasises the position that this Council does not rely upon RIPA, but is also a reflection of the effect of the Protection of Freedoms Act 2012 and the RIPA (Directed Surveillance and CHIS) (Amendment) Order 2012 which served to further reduce the areas in which the Council may use such procedures, as well as requiring Magistrates' approval.

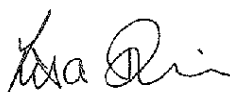
5.3 The Council is inspected every 3 years by the Office of the Surveillance Commissioner (OSC). The last inspection was a desktop based documentary inspection by Mr Graham McCrory MBE. The results of the inspection were reported to Standards Committee on 18 December 2018 (report 18/305 refers), and the policy was updated accordingly.

5.4 The Council's RIPA Policy and Procedure documents are contained within Appendix A of this report.

- 5.5 The RIPA Policy and Procedure are currently being updated to reflect the requirements of the Investigatory Powers Act.
- 5.6 The Investigatory Powers Act 2016 (“IPA”) governs the lawful obtaining of communications data by public authorities. The term communications data includes the ‘who’, ‘when’, ‘where’, and ‘how’ of a communication but not the content, i.e., what was said or written.
- 5.7 The acquisition of communications data was previously covered by RIPA. Under RIPA, local authorities were required to obtain judicial approval in order to acquire communications data. However, the position has now changed and all communications data applications must instead be authorised by the Office for Communications Data Authorisations (“the OCDA”).
- 5.8 A local authority must make a request to obtain communications data via a single point of contact (“SPoC”) at the National Anti-Fraud Network (“NAFN”). In addition to being considered by a NAFN SPoC, an officer within the local authority of the rank of service manager or above should be aware the application is being made before it is submitted to an authorising officer in the OCDA.
- 5.9 The Council has corporate membership of the National Anti-Fraud Network to ensure correct procedures are being followed however must formally update its RIPA policy and procedure to reflect this position. A further report will be presented to the next meeting of this Committee asking Members to approve adoption of the revised policy and procedure.

## **6. IMPLICATIONS**

- 6.1 All relevant implications have been considered in the body of this report.



**Lisa Dixon**  
**Director**

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### **Background Papers:**

N/A

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT PETRA JACKSON ON 01723 232323 or e-mail [petra.jackson@scarborough.gov.uk](mailto:petra.jackson@scarborough.gov.uk)

