

CHESHIRE EAST COUNCIL

REPORT TO: AUDIT & GOVERNANCE COMMITTEE

Date of Meeting: 29th September, 2016
Report of: Compliance and Customer Relations Manager
Title: Compliance with the Regulation of Investigatory Powers Act (2000) (RIPA) – Report from the recent inspection by the Office of Surveillance Commissioners
Portfolio Holder: Councillor Paul Findlow

1.0 Report Summary

1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) provides a regulatory framework to enable public authorities to obtain information through the use of certain covert investigatory techniques. A report was brought to Audit & Governance Committee on 17th March 2016, outlining how the Council complies with RIPA and highlighting the forthcoming inspection by the Office of Surveillance Commissioners on 23rd May 2016. The inspection has now taken place and the Inspection Report received; this paper outlines the Inspector's findings and recommendations.

2.0 Recommendation

2.1 That the Committee notes the findings from the Inspection Report.

3.0 Reasons for Recommendation

3.1 In order to form an opinion on the Council's compliance with this legislation and to gain the protection afforded by compliance, Audit & Governance Committee needs to gain assurance that there are effective arrangements in place.

4.0 Wards Affected

4.1 All wards.

5.0 Local Ward Members

5.1 Not applicable.

6.0 Policy Implications

6.1 Using RIPA powers can conflict with an individual's human rights and so it is imperative that, when investigating alleged wrongdoing, certain conditions are met in each case in order that successful prosecutions can be made. By following the

authorisation procedures set out in RIPA legislation, officers can demonstrate that any surveillance is necessary for a purpose permitted by the Human Rights Act 1998 and that it is a proportionate measure to take, given all the circumstances.

7.0 Financial Implications

- 7.1 Failure to comply with the legislation can lead to the Chief Surveillance Officer withdrawing the Council's ability to conduct directed surveillance for a period of time. This would have a detrimental impact on the Council's ability to conduct investigations. Fines may also be imposed if the Council were found to be breaching Human Rights legislation.

8.0 Legal Implications

- 8.1 The Regulation of Investigatory Powers Act 2000 was enacted to consolidate and update a range of law enforcement investigative powers to ensure these powers were fit for purpose, as well as being compliant with the UK's obligations under the European Convention on Human Rights. A number of codes of practice have also been issued under this Act.
- 8.2 The Protection of Freedoms Act 2012 introduced additional safeguards in respect of certain surveillance undertaken by local authorities.
- 8.3 Given the possible infringement of people's human rights when using these powers, it is important that the Council complies fully with the law and its own policy and that it reflects on its use of these powers to ensure it is proportionate at all times.

9.0 Risk Management

- 9.1 The impact on the Council of not complying with the legislation would be significant, as identified above in 7.1.

10.0 Background

- 10.1 The Council was inspected on 23rd May, 2016 and the Inspection Report was received at the beginning of July 2016. The report is very positive about the Council's use of RIPA and the key findings are summarised in Appendix 1. Work is in progress to implement the Inspector's one recommendation.

11.0 Access to information

- 11.1 The background papers relating to this report can be inspected by contacting the report writer:
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APPENDIX 1

Inspection by the Office of Surveillance Commissioners - 23rd May, 2016

Summary of Findings and Recommendations

Findings

- Policy and guidance documents, including CCTV Procedure Manual, Joint Protocol Agreement with Cheshire Constabulary and training materials provide an extremely helpful policy and guidance regime for practitioners and provide a solid foundation for compliance.
- Good governance – all authorising officers are Directors, there is a nominated Councillor with particular responsibility for oversight of RIPA, detailed annual reports are submitted to the Audit & Governance Committee and the Director of Legal Services, who is the ‘senior responsible officer’, takes an active role in the strategic oversight of RIPA usage, training and quality assurance.
- Training presentations and the training regime are very good and dynamic. They are useful to practitioners and accurate.
- Authorisations – quality assurance is provided in relation to authorisations and identified staff ensure that timeliness of submissions is maintained throughout the ‘life’ of an authorisation. Overall standard is much improved and some additional steps were suggested, which will improve standards even further.
- Good policy, training and oversight regime. The members of staff with responsibility for these aspects are most conscientious and engaged with the inspection process in a most positive manner.

Recommendation

- Use of the Internet and Social Networking Sites – most local authorities are increasingly using these media for a variety of reasons. Some staff in areas who would not normally be considered as appropriate for RIPA training/guidance may not always be mindful that such activity may meet the criteria for authorisation as directed surveillance. The Council should consider having appropriate training and guidance for all such staff.