

<b>8 July 2021</b>		<b>ITEM: 5</b>
<b>Standards and Audit Committee</b>		
<b>Regulation of Investigatory Powers Act (RIPA) - Activity Report 2020/21</b>		
<b>Wards and communities affected:</b> N/A	<b>Key Decision:</b> N/A	
<b>Report of:</b> Lee Henley – Strategic Lead – Information Management		
<b>Accountable Strategic Lead:</b> Lee Henley – Strategic Lead – Information Management		
<b>Accountable Director:</b> Sean Clark – Corporate Director Resources and Place Delivery		
<b>This report is public</b>		

## **Executive Summary**

This report:

- Provides an update on the usage and activity of RIPA requests during 2020/21.
- Provides an update following on from an inspection that took place by the Investigatory Powers Commissioner's Office.
- Provides a refreshed RIPA Policy for approval.

### **1. Recommendation(s)**

**1.1 To note the statistical information relating to the use of RIPA for the period 2020/21.**

**1.2 To note the findings of the RIPA inspection.**

**1.3 To agree a revised RIPA Policy.**

### **2. Introduction and Background**

**2.1** The Regulation of Investigatory Powers Act 2000 (RIPA), and the Protection of Freedoms Act 2012, legislates for the use of local authorities of covert methods of surveillance and information gathering to assist in the detection and prevention of crime in relation to an authority's core functions.

**2.2** On the 1st September 2017, The Office of Surveillance Commissioners, The Intelligence Services Commissioner's Office and The Interception of

Communications Commissioner's Office were abolished by the Investigatory Powers Act 2016. The Investigatory Powers Commissioner's Office (IPCO) is now responsible for the judicial oversight of the use of covert surveillance by public authorities throughout the United Kingdom.

- 2.3 The RIPA Single Point of Contact (SPOC) maintains a RIPA register of all directed surveillance RIPA requests and approvals across the council.

### 3. Issues, Options and Analysis of Options

#### 3.1 RIPA Activity

- 3.1.1 There was 1 Thurrock RIPA surveillance authorisation processed during 2020/21. Below is a breakdown showing the areas the authorisations relate to for this period (along with previous year's figures):

	2019/20	2020/21
Trading Standards	1	0
Fraud	1	1
Covert Human Intelligence Source (CHIS) authorisations	0	0
<b>Total</b>	<b>2</b>	<b>1</b>

- 3.1.2 The outcomes of the above RIPA directed surveillance authorisations cannot be summarised in detail. This is due to Data Protection requirements and to ensure that any on-going investigations are not compromised as a result of a disclosure of information.

- 3.1.3 The table below shows the number of requests made to the National Anti-Fraud Network (NAFN) for Communication Data requests:

Application Type:	2019/20	2020/21
Events (Service) Data	1 (Fraud)	1 (Fraud)
Entity (Subscriber) Data	5 (Fraud)	9 (Fraud)
Combined	3 (Trading Standards)	12 (11 Fraud and 1 Trading Standards)
<b>Totals</b>	<b>9</b>	<b>22</b>

#### Notes in relation to NAFN applications:

- Events Data – Is information held by a telecom provider including itemised telephone bills and/or outgoing call data.
- Entity Data – Includes any other information or account details that a telecom provider holds e.g. billing information.
- Combined – Includes applications that contain both Events and Entity data.

## 3.2 Inspection by the Investigatory Powers Commissioner's Office

3.2.1 An on-site inspection by the Investigatory Powers Commissioner's Office (IPCO) was originally planned for 2020. However due to Covid restrictions, the IPCO Inspector agreed to:

- Postpone the on-site inspection.
- Undertake a telephone-based inspection. This was carried out in February 2021 and followed on from detailed documentation that was provided to the Inspector by the RIPA Single Point of Contact back in April 2020.
- Receive from the council, a sample of surveillance authorisations approved since the previous inspection back in 2016, once the Covid restrictions are lifted. These were subsequently sent to the Inspector on 4 May 2021 by the RIPA Single Point of Contact.

3.2.2 The findings of the telephone inspection are summarised below:

- That the previous recommendations, made by the Assistant Surveillance Commissioner as part of the inspection in November 2016, have been fully discharged by the council.
- The Inspector recommended a revision to the policy covering the acquisition of communications data to reflect legislative changes arising from the implementation of the Investigatory Powers Act 2016 - These changes were incorporated in the policy that went to Committee on 9 July 2020.
- The inspector commented that its pleasing to note that RIPA training continues to be delivered annually to authorising officers and the Trading Standards and Corporate Fraud Teams, who are the most likely officers to undertake operations using covert investigatory powers.
- It was unclear whether all online activity conducted in connection with children's services, enforcement or investigative functions, is recorded and periodically scrutinised for oversight purposes.
- The policy requires additional information in relation to the retention of data to ensure records are retained for as long as necessary.
- The policy should be clear that the Authorising Officer is responsible for directed surveillance authorisations and not the Senior Responsible Officer (SRO).

3.2.3 The key findings of the surveillance authorisation inspection are summarised below:

- The Inspector concluded that the council takes its RIPA responsibilities seriously and conducts investigations in an ethical and compliant manner.
- Authorising officers need to articulate clearly why they believe that the activities authorised are proportionate.
- When cancelling an authorisation, the Authorising Officers should record the value of the surveillance and the reasons for cancellation.

### **3.3 Policy Changes:**

3.3.1 The RIPA Policy has been amended following on from the inspection referred to within 3.2 above. A summary of key changes made are shown below:

- Sections 4 and 5 - The policy is now clear that the Authorising Officer is responsible and/or accountable for the authorisation of applications and not the Senior Responsible Officer (SRO). The SRO role is a quality assurance role (e.g. to ensure the request meets the crime threshold).
- Section 10 – The policy now includes specific information regarding the management and retention of directed surveillance records. This includes setting out the arrangements to ensure that directed surveillance records are held for as long as necessary.
- Section 15 - The policy is clear that records of visits by staff to any social media sites must be documented by staff at all times. A Social Media Activity Log has been set up for service areas to records such checks. The policy also sets out the arrangements in place to check for compliance regarding social media monitoring.

### **4. Reasons for Recommendation**

4.1 This report provides an update on the usage and activity of RIPA requests for 2020/21, provides an up to date RIPA Policy for approval and summarises the outcome from an inspection.

### **5. Consultation (including Overview and Scrutiny, if applicable)**

5.1 The RIPA SPOC has consulted with the relevant departments to obtain the data set out in this report.

### **6. Impact on corporate policies, priorities, performance and community impact**

6.1 Monitoring compliance with RIPA supports the council's approach to corporate governance and will ensure the proper balance of maintaining order against protecting the rights of constituents within Thurrock.

### **7. Implications**

#### **7.1 Financial**

Implications verified by: **Jonathan Wilson**  
**Assistant Director of Finance**

The reported RIPA Activity is funded from within agreed budget envelopes.

## 7.2 Legal

Implications verified by: **Tim Hallam**  
**Strategic Lead – Legal**

There are no legal implications directly related to this report. It is noted that following an IPCO inspection earlier this year a number of policy changes have been introduced as outlined in 3.3 of the report. This is in accordance with the recommendations of the IPCO and their role in the judicial oversight of the use of Covert surveillance by Public authorities.

## 7.3 Diversity and Equality

Implications verified by: **Natalie Smith**  
**Community Development and Equalities  
Manager**

There are no such implications directly related to this report.

## 8. Background papers used in preparing the report (including their location on the council's website or identification whether any are exempt or protected by copyright):

- None.

## 9. Appendices to the report

Appendix A – RIPA Policy

## Report Author

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