

AUDIT AND GOVERNANCE COMMITTEE



Report subject	Use of Regulation of Investigatory Powers Act (RIPA) and Investigatory Powers Act (IPA) Annual Report for 2022/23 financial year
Meeting date	27 July 2023
Status	Public Report
Executive summary	<p>Following an annual review process, the Regulation of Investigatory Power Act (RIPA) and Investigatory Powers Act (IPA) Policy was updated with some minor changes to include reference & links to Home Office Code of Practices for Covert Surveillance and Property interference (Aug 2018), Interception of Communications (Dec 2022) and Covert Human Intelligence Sources (Dec 2022) and other relevant legislation.</p> <p>BCP Council has not made use of powers under RIPA or IPA during the 2022/23 financial year.</p> <p>BCP Council has completed and sent its statutory nil-return for the 2022 calendar year to the Investigatory Powers Commissioner's Office (IPCO).</p>
Recommendations	<p>It is RECOMMENDED that:</p> <p>Audit & Governance Committee note that the Council has not made use of powers under the Regulation of Investigatory Powers Act or the Investigatory Powers Act during the 2022/23 financial year.</p>
Reason for recommendations	To ensure transparency in respect of the Council's use of its powers under the Regulation of Investigatory Powers Act and the Investigatory Powers Act.
Portfolio Holder(s):	Cllr Mike Cox, Portfolio Holder for Finance
Corporate Director	Ian O'Donnell, Corporate Director for Resources
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Wards	Council-wide
Classification	For Information

Background

1. The Regulation of Investigatory Powers Act (RIPA) was enacted in 2000 to regulate the manner in which certain public bodies may conduct surveillance and access a person's electronic communications and to ensure that the relevant investigatory powers are used in accordance with human rights. The provisions of the Act include:
 - the interception of communications;
 - the acquisition of communications data (e.g. billing data);
 - intrusive surveillance (on residential premises/in private vehicles);
 - covert surveillance in the course of specific operations;
 - the use of covert human intelligence sources (agents, informants, undercover officers); and
 - access to encrypted data.
2. The Investigatory Powers Act (IPA) is the main legislation governing the access to or acquisition of communications data. It does not fully replace all pre-existing RIPA requirements but does introduce some important and significant variations to authorisation and regulatory oversight in particular.
3. There are various codes of practice, updated periodically, which broadly cover the specific bullet points above. These help public authorities assess and understand whether, and in what circumstances, it is appropriate to use covert techniques. The codes also provide guidance on what procedures need to be followed in each case and identifies **as a matter of best practice that elected members of an authority should review the authority's use of RIPA and IPA at least once a year**. The purpose of this annual report is to set out the level and nature of BCP Council's use of covert surveillance under RIPA and acquisition of communications data under IPA.

BCP RIPA and IPA Policy Annual Evolution

4. An annual review of the Council's Regulation of Investigatory Powers Act (RIPA) and Investigatory Powers Act (IPA) Policy took place in early 2023 and the revised policy was approved by Audit & Governance Committee (16 February 2023).
5. A few minor changes have been made to the policy as part of the annual evolution as summarised below:
 - Added reference and links under Section 8 to Home Office Code of Practices for Covert Surveillance and Property interference (Aug 2018), Interception of Communications (Dec 2022) and Covert Human Intelligence Sources (Dec 2022).
 - Added links to Regulation of Investigatory Powers Act 2000 (RIPA) and RIPA (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (and as amended 2012) and Investigatory Powers Act (IPA) 2016 which came into force on 11 June 2019.
 - Added links to the European Convention on Human Rights (ECHR), RIPA (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 Statutory Instrument 2010 No. 521 and The Protection of Freedoms Act 2012.
6. The updated policy was communicated to officers during April 2023 via corporate communications.

Use of RIPA/IPA by the Council

7. The BCP Council RIPA & IPA Policy states that overall responsibility for the use of RIPA & IPA lies with the Senior Responsible Officer (SRO) who is the Director of Law & Governance (& Monitoring Officer). The deputy SRO is the Chief Executive.

8. The Regulatory Services Manager, Director of Housing & Communities, Chief Executive and Corporate Directors are the Council's Authorising Officers in respect of both RIPA and IPA applications which are then subject to judicial approval in the local Magistrates' Court. For internally authorised IPA applications, approval for the acquisition of communications data must be granted by the Office for Communications Data Authorisations (OCDA) which National Anti-Fraud Network (NAFN) arrange on behalf of the Council. The Head of Audit & Management Assurance is the RIPA Administrator and is responsible for maintaining a central register of authorisations applied for.
9. The use of covert surveillance techniques can assist councils in delivering objectives in areas such as crime, anti-social behaviour and licensing. As a result of complying with RIPA, the Council only invokes these powers as a last resort where overt surveillance is not possible.
10. During the 2022/23 financial year, the Council has **not** made use of powers under RIPA or IPA. The Council's RIPA/IPA Authorising Officers have not approved the use of covert surveillance techniques or requests to access communications data in any cases.
11. All entities able to use RIPA/IPA are required to complete a statutory return to the IPCO for the preceding calendar year. The Council completed and sent off this return within the required timeframes (in January 2023).

Options Appraisal

12. An options appraisal is not applicable for this report.

Summary of financial implications

13. There are no direct financial implications from this report.

Summary of legal implications

14. The Council must follow Regulation of Investigatory Powers Act (RIPA) and Investigatory Powers Act (IPA) requirements should it wish to enact covert surveillance.

Summary of human resources implications

15. There are no direct human resource implications from this report.

Summary of sustainability impact

16. There are no direct sustainability impact implications from this report.

Summary of public health implications

17. There are no direct public health implications from this report.

Summary of equality implications

18. There are no direct equalities implications from this report.

Summary of risk assessment

19. There are no direct risk implications from this report.

Background papers

None

Appendices

None