

Decision Maker: PUBLIC PROTECTION & ENFORCEMENT PDS COMMITTEE

Date: 27th September 2018

Decision Type: Non-Urgent Non-Executive Key

Title: REGULATON OF INVESTIGATORY POWERS ACT
AUTHORISATIONS

Contact Officer: Rob Vale, Trading Standards & Community Safety Manager
Tel: 020 8313 4785 E-mail: Rob.Vale@bromley.gov.uk

Chief Officer: Nigel Davies, Executive Director of Environment & Community Services

Ward: (All Wards);

1. Reason for report

This report is to ensure the Committee is kept up to date on RIPA applications being undertaken on behalf of the Council. It is a requirement that the Council regularly review and update their RIPA Policy and Processes in line with Home Office Codes of Practice, legislation and guidance.

2. **RECOMMENDATION(S)**

The committee is asked to note this report.

Impact on Vulnerable Adults and Children

1. Summary of Impact: see section 4
-

Corporate Policy

1. Policy Status. Existing
 2. BBB Priority: Children and Young People Safe Bromley Supporting Independence:
-

Financial

1. Cost of proposal: N/A
 2. Ongoing costs:N/A
 3. Budget head/performance centre: Public Protection
 4. Total current budget for this head: £2.424m
 5. Source of funding: Existing revenue budget 2018/19
-

Personnel

1. Number of staff (current and additional): NA
 2. If from existing staff resources, number of staff hours: NA
-

Legal

1. Legal Requirement: The Protection of Freedoms Act 2012 requires local authorities to obtain the approval of a magistrate for the use of covert surveillance. Definitions of covert surveillance and the use of a covert human intelligence source (CHIS) are set out in the Regulation of Investigatory Powers Act 2000.
 2. Call-in:
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not applicable
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1 The Regulation of Investigatory Powers Act 2000 (“RIPA”), and its associated enactment orders regulate the way investigations are carried out for the prevention and detection of crime. The main aim of RIPA is to ensure that covert investigations are conducted in such a way as to protect individuals’ rights and act as a safeguard to protect council officers and the Council against any legal challenge.
- 3.2 The council has a number of statutory functions for the purpose of preventing or detecting crime and whilst most of these functions are carried out overtly, there are occasionally circumstances which may require consideration for a covert operation which may require an application for the use of directed surveillance. These functions include investigating anti-social behaviour, fly tipping, noise nuisance control, under age sales of tobacco and alcohol and licensing and food safety legislation. A serious crime threshold (offences which attract a maximum custodial sentence of 6 months or more or relate to underage sales of alcohol and tobacco) will need to be applied to any Directed Surveillance application. Any criminal activity being investigated that falls below this threshold cannot be authorised under RIPA procedures. This is designed to limit the scope of RIPA powers so that it is not used for more trivial offences.
- 3.3 Enforcement powers must be used in accordance with the Human Rights Act 1998 and, in particular Article 8 - (the right to respect for private and family life, home and correspondence). Authorisation under RIPA will only ensure that there is a justifiable interference with an individual’s Article 8 right if it is necessary and proportionate for these activities to take place.
- 3.4 Since 2012, the Protection of Freedoms Act 2012 requires local authorities to obtain the approval of a magistrate for the use of covert surveillance.
- 3.5 All applications for RIPA authorisations have to be considered and approved by specified authorising officers within the Council. The Council has a RIPA Policy and Procedure and produced a range of forms which are available to all officers on the intranet. Training has been undertaken by relevant officers who may either require a RIPA authorisation in connection with the carrying out of their roles or who have been designated as authorising officers.
- 3.6 In investigating criminal offences, the Council also has powers to gain access to communications data (that is information held by telecommunication or postal service providers about the use of their services by persons who are the subject of criminal investigations). This does not allow access to the content of telephone calls. The Council uses the National Anti-Fraud Network (NAFN) to make all its applications for access to communications data.
- 3.7 The Council’s use of its powers under RIPA and the Communications Order are subject to external scrutiny in the form of inspections by the Office of Surveillance Commissioner’s Office (OSC) and the Interception of Communications Commissioner’s Office (IOCCO) respectively.

Code of Practice

- 3.8 A revised Code of Practice on Covert Surveillance and Property Inference was released by the Home Office on 15th August 2018. The Council’s “Policy & Procedure on covert surveillance and the use of covert intelligence sources under the Regulation of Investigatory Powers Act 2000” is currently under review in order that it can be aligned with the latest code of practice.
- 3.9 Elected members of a local authority should review the authority’s use of authorised directed surveillance and set the policy to ensure that it is being used consistently with the local authority’s policy and that the policy remains fit for purpose.

3.10 The following tables detail the number of RIPA applications for the periods 1st April 2016 to 31st March 2017 and 1st April 2017 to 31st March 2018:

REFERENCE NUMBER	OFFICER AUTHORITY	MAGISTRATES' COURT AUTHORITY	Enforcement Team	OPERATION INFORMATION
16-001	19.07.16	22.07.16	Street Scene & Greenspace	Illegal Waste
16-002	20.07.16	22.07.16	Trading Standards	Underage Sales
16-003	22.09.16	29.09.16	Trading Standards	Underage Sales
16-004	19.10.16	27.10.16	Trading Standards	Underage Sales
16-005	08.11.16	11.11.16	Street Scene & Greenspace	Fly Tipping
16-006	29.11.16	30.11.16	Trading Standards	Underage Sales
16-007	09.02.17	20.02.17	Trading Standards	Underage Sales
16-008	16.02.17	28.02.17	Street Scene & Greenspace	Illegal waste

REFERENCE NUMBER	OFFICER AUTHORITY	MAGISTRATES' COURT AUTHORITY	Enforcement Team	OPERATION INFORMATION
17-001	23.03.17	04.04.17	Street Scene & Greenspace	Fly-Tipping
17-002	28.04.17	03.05.17	Street Scene & Greenspace	Fly-tipping
17-003	12.09.17	14.09.17	Trading Standards	Underage Sales
17-004	08.09.17	14.09.17	Street Scene & Greenspace	Fly Tipping
17-005	16.10.17	20.10.17	Street Scene & Greenspace	Fly Tipping
17-006	25.01.18	31.01.18	Trading Standards	Underage Sales
17-007	05.03.18	05.03.18	Trading Standards	Underage Sales

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

4.1 Most crimes will have a negative impact on all members of the local community, whether it involves crimes against the person or in relation to property. Research about older people in the UK shows that fear of crime is often significantly associated with low quality of life, limited mobility and poor health status. Older people may go out of the home less frequently to visit friends and relatives because of the fear of neighbourhood crime. Fear of crime can be increased by anti-social behaviour which has gone unchecked, such as graffiti, fly tipping and underage drinking.

5. LEGAL IMPLICATIONS

5.1 All investigation using covert surveillance techniques or involving the acquisition of communications data is in line with the Regulation of Investigatory Powers Act 2000. The Protection of Freedoms Act 2012 requires local authorities to obtain the approval of a magistrate for the use of covert surveillance. Definitions of covert surveillance and the use of a covert human intelligence source (CHIS) are set out in the Regulation of Investigatory Powers Act 2000.

Non-Applicable Sections:	Procurement, Policy and Financial Implications
Background Documents: (Access via Contact Officer)	[Title of document and date]