

Committee: **Governance and Audit Committee**

Date of meeting: **2nd November 2021**

Report Subject: **Annual Update Report – Use of Powers under the Regulation of Investigatory Powers Act (RIPA) 2000**

Portfolio Holder: **Executive Member Corporate Services/Leader – Cllr Nigel Daniels**

Report Submitted by: **Head of Legal & Corporate Compliance**

Reporting Pathway								
Directorate Management Team	Corporate Leadership Team	Portfolio Holder / Chair	Gov&Audit Committee	Democratic Services Committee	Scrutiny Committee	Executive Committee	Council	Other (please state)
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1. Purpose of the Report

- 1.1 The purpose of the report is to provide the Governance and Audit Committee with information relating to the Council’s use of statutory powers under the Regulation of Investigatory Powers Act (RIPA) 2000 for the period 2020/2021, as required under the Council’s RIPA policy and procedures.

2. Scope and Background

- 2.1 The Council can only undertake covert surveillance if the proposed operation is authorised internally by one of the named authorising officers and in addition any proposed surveillance must also be approved by a Magistrates’ Court. A Council can only use directed surveillance if it is necessary to prevent or detect criminal offences which attract a custodial sentence of six months or more, or criminal offences relating to the underage sale of alcohol or tobacco. The use of the Council’s powers under RIPA has reduced significantly over recent years and this is a trend noted across the UK. Use of the powers has to be demonstrated to be proportionate to what is sought to be achieved. For most areas of Council activity it would not be proportionate to utilise the powers.
- 2.2 The Governance and Audit Committee monitors activity in this area, and this report contains information which seeks to provide assurance on the effective operation of the Council’s policy in relation to the Act. The information provided covers the period 1st August 2020 – 31st July 2021.

3. Options for Recommendation

Option 1

That the Governance and Audit Committee considers and accepts the information in the report which is given as assurance that appropriate oversight and monitoring is taking place.

Option 2

That the Audit Committee considers the information contained in the report and provides specific comment.

4. **Evidence of how does this topic supports the achievement of the Corporate Plan / Statutory Responsibilities / Blaenau Gwent Well-being Plan**

This topic relates to statutory regulation and compliance and also links to the Council's objective of efficient Council within the Corporate Plan.

5. **Implications Against Each Option**

5.1 ***Impact on Budget (short and long term impact)***

There is a budget implication in terms of the cost of providing ongoing training for staff across the Council.

5.2 ***Risk including Mitigating Actions***

Misuse/abuse of the powers is potentially a criminal offence. The Council's Monitoring Officer maintains a centralised record of all the Council's authorisations/applications and proactively monitors the activity to ensure compliance with the Act and the Council's policy. The Council's policy and operational procedure is reviewed regularly and training is undertaken for all relevant officers who engage the legislation.

In addition, all officers have been made aware of the risks in connection with frequent viewing of social media sites for the purpose of gathering information on persons of interest. Such activity may inadvertently fall within the legislation and require formal authorisation.

5.3 ***Legal***

The Regulation of Investigatory Powers Act 2000 regulates the use of a range of investigative powers by a variety of public authorities. It provides a statutory framework for the authorisation and conduct of certain types of surveillance. The aim is provide a balance between preserving an individual's right to privacy, and enabling enforcement agencies to gather evidence for effective enforcement action within their communities in order to improve the quality of life for its residents. Local Authorities can only use the powers for the prevention and detection of crime and their use is subject to independent oversight by Judicial Commissioners – the Investigatory Powers Commissioner's Office (IPCO) who oversee the use of investigation powers by intelligence agencies, police forces and public authorities. The IPCO undertake an audit of all Councils every three years.

5.4 ***Human Resources***

No direct implications.

6. **Supporting Evidence**

6.1 ***Performance Information and Data***

Access to Communications Data: relation to this category of surveillance, no applications were made.

Authorisation of directed surveillance: One application made to the Magistrates' Court and granted in relation to directed surveillance - case related to a Trading Standards investigation. Case ongoing through the Courts.

Covert Human Intelligence Sources: No applications were made.

Updated training on the topic of the use of RIPA has been delayed due to the Covid response but it is anticipated will take place in January 2022. A review of the policy and procedures will also take place early in 2022.

- 6.2 ***Expected outcome for the public***
To provide assurance to the public of the appropriate and proportionate use of statutory powers.
- 6.3 ***Involvement (consultation, engagement, participation)***
This is not an area in which public consultation or engagement is appropriate. Internal engagement on the operation of the Regulations and Policies is an ongoing process.
- 6.4 ***Thinking for the long term (forward planning)***
The use of the powers is connected with improving the quality of life for residents and keeping safe from harm.
- 6.5 ***Preventative focus***
See above.
- 6.6 ***Collaboration / partnership working***
All relevant public bodies must adhere to the same statutory regime.
- 6.7 ***Integration(across service areas)***
All service areas are subject to the law & the policy, and the Monitoring Officer ensures oversight and consistency of approach and application.
- 6.8 ***Decarbonisation and Reducing Carbon Emissions***
Not relevant to this topic.
- 6.9a ***Socio Economic Duty Impact Assessment***
Not applicable
- 6.9b. ***Equality Impact Assessment***
Not applicable
- 7. **Monitoring Arrangements**
The Council's RIA Monitoring Officer together with the Governance and Audit Committee is responsible for oversight of the regime and must monitor the use of these powers.

Background Documents /Electronic Links

The Council's Policy and Operational Procedure, available on the Council's Intranet.