

Committee: **Audit Committee**

Date of meeting: **29th September 2020**

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

Portfolio Holder: **Leader – Cllr Nigel Daniels**

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

Reporting Pathway								
Directorate Management Team	Corporate Leadership Team	Portfolio Holder / Chair	Audit Committee	Democratic Services Committee	Scrutiny Committee	Executive Committee	Council	Other (please state)
17.9.20	24.9.20		29.9.20					

1. **Purpose of the Report**
  - 1.1 The purpose of the report is to provide the 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 2019/2020, 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 any proposed surveillance must also be approved by the 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 Audit Committee monitors activity in this area, and this report contains information which seeks to provide an assurance on the effective operation of the Council's policy in relation to the Act. The information provided covers the period 1<sup>st</sup> August 2019 – 31<sup>st</sup> July 2020.
  
3. **Options for Recommendation**
  - Option 1**

That the 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, and Blaenau Gwent's inspection is due to take place later this year. Due to the COVID19 situation, the inspection will take place remotely.

#### **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: Two applications were made to the Magistrates' Court and granted in relation to directed surveillance - both cases related to Trading Standards investigations.

Covert Human Intelligence Sources: No applications were made.

Updated training on the topic of the use of RIPA was due to take place in 2020 but is now likely to be held early in 2021. An internal review of the policy and procedure will take place after the IPCO inspection referred to in paragraph 5.3 above.

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 ***EqlA(screening and identifying if full impact assessment is needed)***

The Regulations are applicable to people with protected characteristics.

7. **Monitoring Arrangements**

An annual review of activity is undertaken. Reporting on activity will take place after the event to ensure no current investigation could be jeopardised by the reporting of information.

**Background Documents /Electronic Links**

- Link to the Council's policy and operational procedure, available on Council's Intranet.