

SUBJECT:	Regulation of Investigatory Powers Act 2000 (RIPA)
MEETING:	Governance and Audit Committee
DATE OF REPORT:	4 December 2023
DIVISION/WARDS AFFECTED:	All

1. PURPOSE

- 1.1 This annual report provides details of the use by the Council of surveillance powers regulated by the Regulation of Investigatory Powers Act 2000 for financial years 2020/2021, 2021/2022 and 2022/2023.

2. RECOMMENDATIONS

- 2.1 Committee is recommended to receive this report and note its contents, and make any observations or recommendations it considers appropriate.

3. KEY ISSUES

- 3.1 Local authorities carry out investigations for a variety of regulatory services. In carrying out these duties, they have general powers to conduct surveillance of individuals suspected of committing criminal offences.
- 3.2 The Regulation of Investigatory Powers Act 2000 (RIPA) regulates the use of certain surveillance powers, including:
- Directed Surveillance (covert surveillance conducted as part of a specific investigation likely to result in obtaining private information about an individual);
 - Use of Covert Human Intelligence Sources (CHIS), and
 - Access to communications data (e.g. details of subscribers to telephone numbers or email accounts).
- 3.3 These powers are seldom used by the Council. However it is important that when they are used, the Council has sufficient oversight of its activities to ensure that any considered use is compliant with the subject's human rights, in particular Article 8 of the European Convention of Human Rights (right to privacy).
- 3.4 The Home Office publishes national Codes of Practice on the use of RIPA-regulated surveillance powers by public authorities. The Council must have regard to the relevant Code of Practice whenever exercising powers covered by RIPA. In addition, the Investigatory Powers Commissioners' Office (IPCO) conducts periodic inspections of all public authorities to ensure compliance with RIPA and the Codes of Practice.
- 3.5 The Council has adopted its own Policy to advise officers on RIPA obligations and to regulate any use of these powers.
- 3.6 Day to day oversight of the Council's internal compliance with RIPA rests with the RIPA Senior Responsible Officer (SRO) who also acts as the main source of legal advice to regulatory officers and keeps the Council's Policy up to date.
- 3.7 Under the Council's RIPA Policy, the use of any surveillance powers must first be approved by a suitably trained Authorising Officer. There is currently one such Authorising Officer at the Council. If the Authorising Officer gives approval, then an application must be made to the Magistrates

Court for independent judicial approval before the activity takes place (the Office for Communications Data Authorisations gives judicial approval in respect of accessing communications data). Any authorisations issued must also be internally reviewed and cancelled when no longer required.

- 3.8 The Home Office Code of Practice for Covert Surveillance and Property Interference recommends that elected members of a local authority should review the use of RIPA and set the policy at least once a year. In MCC, responsibility for member oversight of RIPA is divided between Cabinet and the Governance and Audit Committee.
- 3.9 Cabinet is the appropriate body to conduct an annual review and approval of the Policy as well as receive the outcome of any IPCO inspection. The Policy was last reviewed and approved by Cabinet on 8 November 2023. The policy is therefore up to date in that respect. The last inspection was carried out in 2023 and confirmed that the Council is compliant with RIPA and its Policy. Copies of the newly reviewed and approved Policy and inspection outcome letter are attached for reference at Appendices 1 and 2 respectively.
- 3.10 The Governance and Audit Committee is the appropriate body to receive an annual report from the SRO on the use of RIPA-regulated powers.
- 3.9 The Council made the following use of surveillance powers under RIPA in financial years 2020/2021, 2021/2022 and 2022/2023:

2020/2021

Nil

2021/2022

Nil

2022/2023

1 authorisation for directed surveillance, relating to an investigation for potential offences of underage sale of 'vapes' and the supply for psychoactive effect of Nitrous Oxide canisters.

4. EQUALITY AND FUTURE GENERATIONS EVALUATION (INCLUDES SOCIAL JUSTICE, SAFEGUARDING AND CORPORATE PARENTING)

- 4.1 Given the nature of this report no implications have been identified.

5. RESOURCE IMPLICATIONS

- 5.1 Nil

6. CONSULTEES

- 6.1 SLT
David Jones (Head of Public Protection/RIPA Authorising Officer)

7. AUTHOR

- 7.1 Geraint Edwards
Acting SRO
Solicitor

geraintedwards@monmouthshire.gov.uk