



Agenda item:

Decision maker: Governance & Audit Committee

Subject: Regulation of Investigatory Powers Act 2000 (RIPA)

Date of decision: 28th June 2012

Report from: Michael Lawther City Solicitor and Strategic Director

Report by: Lyn Graham, Chief Internal Auditor

Wards affected All

Key decision (over £250k) N/A

1. Summary

- 1.1 Five Regulation of Investigatory Powers Act (RIPA) authorisations have been made since the last report to Governance and Audit Members in January 2012 and are detailed on Appendix A attached.

2. Purpose of report

- 2.1 To update Members on the Authority's use of Regulatory Powers, in accordance with Policy, for the six month period from January 2012 to June 2012 (31st May).

3. Background

- 3.1 Surveillance by a public authority may constitute an infringement of an individual's rights and freedoms which are protected by the Human Rights Act 1998. However, by following the authorisation procedures set out by the Regulation of Investigatory Powers Act, officers of the Council are ensuring that they can demonstrate that the surveillance is necessary for a purpose permitted by the Human Rights Act and that it is a proportionate measure to take, given all of the circumstances.
- 3.2 PCC has a policy and procedures to ensure that officers comply with the Regulation of Investigatory Powers Act requirements to mitigate any legal challenge risks.
- 3.3 The Protection of Freedoms Bill limits the use of RIPA authorisations by local authorities on activity that carries a minimum 6 months imprisonment, although it is understood that protection of minors is excluded from this limitation e.g. sale of tobacco, alcohol, knives etc. The Bill also requires the ultimate authorisation of a RIPA by a Magistrate (S.32b). The Bill received Royal Assent on the 1st May 2012 but no guidance has been issued as yet.

4. Recommendations

It is recommended that Members of the Governance and Audit Committee:

- 4.1 Note the RIPA applications authorised for the six months from January 2012 to June 2012,
- 4.2 Note the current legal situation with regard to the Protection of Freedoms Bill and it's impact on RIPA authorisations
- 4.3 Approve an additional authorising officer.

5. Regulation of Investigatory Powers Act Authorisations

- 5.1 Five RIPA applications have been authorised for the six months January 2012 to June 2012 these include:
 - 2 x detection of illegal tobacco sales
 - 1 x detection of illegal sales of alcohol
 - 1 x detection of blue badge misuse
 - 1 x detection of unknown suspects in the act of theft
- 5.2 Where a prosecution doesn't arise it can be because a warning has been issued to a first offender to deter any re-offending or because the intelligence that an officer has at the time of the authorisation turns out to be unfounded. On these occasions it has been determined that a RIPA authorisation for covert surveillance is the only way to test the intelligence.
- 5.3 For all these authorisations the potential offences all carry a minimum 6 months imprisonment or involve the protection of minors.

Training

- 5.4 Services that are likely to carry out activities under RIPA authorisations (including those authorised by other bodies such as the Police) include:
 - Anti-Social Behaviour Order Unit
 - Health and Social care
 - Close Circuit Television (CCTV)
 - Revenues and Benefits
 - Trading Standards
 - Any other enforcement activity
- 5.5 To ensure that the current Codes of Practice are always adhered to, officers concerned with RIPA applications and authorisations are given annual training and update training was provided on 20th March 2012. The authorising officers will be attending training in July re the changes accorded by the new legislation.

Authorising Officers

- 5.5 The officers appointed to authorise RIPA applications for the Authority are currently Lyn Graham, Chief Internal Auditor, Elizabeth Goodwin, Deputy Chief Internal Auditor and Robert Briggs, Trading Standards Manager. In order to give the best operational cover another authorising officer is required and the nominated officer for this is Paddy May, Strategy Manager. All of these officers are at the required level as stated in the Code of Practice. These officers will continue to authorise RIPA's before they are put before a Magistrate for judicial approval.

6. Equality impact assessment (EIA)

This is an information report only and therefore does not require an equalities impact assessment.

7. Head of Legal Services' comments

The Legal implications are incorporated within the body of this report. There are no other immediate legal implications arising from this report

8. Head of Finance's comments

N/A

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Signed by: Michael Lawther, City Solicitor and Strategic Director

Appendices:

Appendix A –Regulation of Investigatory Powers Act Authorisations

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
1 Covert Surveillance Code of Practice Issued by the Home Office and Covert Human Intelligence sources Code of Practice issued by the Home Office	http://www.homeoffice.gov.uk/counter-terrorism/regulation-investigatory-powers/Regulation of Investigatory Powers Act-codes-of-practice/
2 Regulation of Investigatory Powers Act 2000	http://www.legislation.gov.uk/ukpga/2000/23/contents
3 Portsmouth City Council Regulation of Investigatory Powers Act Policy	http://intranlink/Media/Revised RIPA Policy.pdf
4 Home Office guidance	Internal Audit
5 Protection of Freedoms Bill	http://www.homeoffice.gov.uk/publications/about-us/legislation/protection-freedoms-bill/

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by the Governance & Audit Committee on 28th June 2012.

RIPA AUTHORISATIONS JANUARY 2012 TO JUNE 2012

APPENDIX A

Ref Number	Date authorised	Purpose	Length of investigation	Number of people under investigation	Outcome
68	7-March-2012	To identify any suspicious activity in order to execute a warrant re Illegal Sales of tobacco	Four week period between 1 and 2 hours per day. Cancelled 10 th May	2	No suspicious activity viewed.
69	7-March-2012	Illegal Sales of Tobacco. To identify any suspicious activity in order to execute a warrant	Four week period between 1 and 2 hours per day	2	Goods seized and proprietor given a warning
70	9- May-2012	Illegal sales of alcohol. To identify any illegal sales and prosecute if found	4 hours	3	No arrest so RIPA cancelled. Licensing now dealing with.
71	10-May-2012	Misuse of Blue Badge. To identify any systematic abuse and confirm perpetrator	3 days various times	one	Prosecution pending
72	31-May-2012	The purpose of the operation is to obtain evidence of unknown offenders whilst in the act of theft.	4 days during early hours of the morning.	Unknown	No activity observed.