

Item No. 17.	Classification: Open	Date: 5 February 2024	Meeting Name: Audit, governance and standards committee
Report title:		Report on the operational use of the Regulation of Investigatory Powers Act 2000	
Ward(s) or groups affected:		All	
From:		Assistant Chief Executive (Governance and Assurance)	

RECOMMENDATION

1. That the committee notes the information relating to the use of RIPA in 2023.

BACKGROUND INFORMATION

2. The Regulation of Investigatory Powers Act 2000 (RIPA) puts a regulatory framework around a range of investigatory powers used by local authorities. This is done to ensure the powers are used lawfully and in a way that is compatible with the European Convention on Human Rights. It also requires, in particular, those authorising the use of covert techniques to give proper consideration to whether their use is necessary and proportionate.
3. RIPA legislates for the use by local authorities of covert methods of surveillance and information gathering to assist in the detection and prevention of crime in relation to an authority's functions.
4. The audit governance and standards committee and its predecessor committee has agreed to consider annual reports on the use of RIPA since 2010

KEY ISSUES FOR CONSIDERATION

5. The council's use of these powers is subject to regular inspection and audit by the Investigatory Powers Commissioner's Office in respect of covert surveillance authorisations under RIPA. During these inspections, authorisations and procedures are closely scrutinised and Authorising Officers are interviewed by the inspectors.
6. The council was last inspected by HH Brian Barker, Assistant Surveillance Commissioner, on 3 October 2016. The council was due to be inspected again in March 2020 but this did not take place due to the COVID public emergency. A virtual inspection took place in 2021 by an inspector who examined the council's use of RIPA powers in relation to directed surveillance and using

covert human intelligence sources (CHIS). The information provided demonstrated at the time a level of compliance that removed for the time being the requirement for a physical inspection.

7. Local authority authorisations and notices under RIPA (Regulation of Investigatory Powers Act 2000) will only be given effect once an order has been granted by a Justice of the Peace. Authorisations are for 3 months and can only be extended with further judicial approval. Within the 3 month period they are subject to regular reviews (usually monthly) to ensure they are still required.
8. Additionally, local authority use of directed surveillance under RIPA has been limited to the investigation of crimes which attract a six month or more custodial sentence, with the exception of offences relating to the underage sale of alcohol and tobacco.
9. Appendix A shows the usage for the period 1 January 2023 to 31 December 2023. Appendix B shows the usage for the period 1 January 2016 to 31 December 2022 for comparison purposes.
10. Officers involved in the authorisation process are provided with relevant training approximately every two years. This was last organised in 2021 and will be taking place again in March..
11. The council's RIPA policy and procedures were last fully reviewed in August 2019 with some updates to details of officers made in September 2022.

Community impact statement

12. The use of these powers under RIPA enhances the effective operation of statutory investigatory functions within a legal framework that ensures appropriate safeguards are met. These functions are directed at providing safeguards to the community at large but are often required to enable those who are vulnerable to be protected from criminal anti-social activity who may also have one or a number of protected characteristics as set out in the Equality Act 2010.

Health impact statement

13. There are no specific identified health impacts resulting from the matters addressed in this report, so a health impact statement is not considered necessary.

Climate change implications

14. There are no specific climate change issues arising from the matters dealt with in this report.

Legal implications

15. The legal context is set out in the body of this report.

Financial implications

16. The use of RIPA powers in ancillary to investigations carried out in services and in the context of their own budgeted resources. No additional resources are identified as need from this report.

CONSULTATION

17. No consultation has been carried out in compiling this report.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
The Constitution	http://www.southwark.gov.uk/YourCouncil/HowTheCouncilWorks/councilconstitution.html 2nd floor, PO Box 64529, London, SE1P 5LX	Constitutional team; constitutional.team@southwark.gov.uk

APPENDICES

No.	Title
Appendix A	1 January 2023 to 31 December 2023
Appendix B	1 January 2016 to 31 December 2022

AUDIT TRAIL

Lead Officer	Doreen Forrester-Brown Assistant Chief Executive (Governance and Assurance)		
Report Author	Charles Meredith, Assistant Governance Lawyer		
Version	Final		
Dated	05.02.24		
Key Decision?	No		
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER			
Officer Title	Comments Sought	Comments included	
Assistant Chief Executive (Governance and Assurance)	Yes	Incorporated	
Strategic Director of Finance	No	No	
Cabinet Member	N/a	N/a	
Date final report sent to Constitutional Team			25 January 2024

APPENDIX A

Reference	Date authorisation agreed by JP	Purpose	Length of investigation
EN91	27.10.2022	surveillance concerning sale of illegal skin lightener	Terminated 19.01.2023
EN92	Not yet authorised	surveillance of suspect suspected of selling illicit tobacco	
EN93	02.08.2023	surveillance of suspect suspected of selling illicit tobacco	Terminated 25.10.2023

APPENDIX B

Reference	Date authorisation agreed by JP	Purpose	Length of investigation
EN75	13.01.2016	surveillance concerning sale of unsafe food	Terminated 12.02.2016
EN76	13.01.2016	surveillance concerning sale of unsafe food	Terminated 12.02.2016
EN77	13.01.2016	surveillance concerning sale of unsafe food	Terminated 12.02.2016
EN78	13.01.2016	surveillance concerning sale of unsafe food	Terminated 12.02.2016
EN79	29.11.2016	sale of counterfeit tobacco	Terminated 23.01.2017
EN80	29.11.2016	Sale of counterfeit tobacco	Terminated 24.02.2017
EN81	24.03.2017	Surveillance concerning the supply of illegal lightening cosmetic products	Terminated 08.05.2017
EN82	13.07.2017	surveillance concerning prolific fly tipping	Terminated 12.10.2017
EN83	24.03.2017	surveillance concerning sale of illegal skin lightener	Terminated 08.05.2017
EN84	17.09.2018	surveillance of suspect suspected of selling illicit tobacco	Terminated 03.10.2018
EN85	15.08.2018	Surveillance of suspect suspected of selling illicit tobacco	Terminated 21.08.2018
EN86	It was decided to withdraw this application due to operational reasons before authorisation		
EN87	15.10.2018	Surveillance of suspect suspected of selling illicit tobacco	Terminated 13.12.2018
EN88	05.09.2019	Surveillance of suspect suspected of selling illicit tobacco	Terminated 11.12.2019
EN89	17.01.2020	Surveillance of suspect suspected of selling illicit tobacco	Terminated 17.3.2020
EN90	13.10.2021	Surveillance of suspect suspected of selling illicit tobacco	Terminated 10.01.2022