



# Audit Committee



www.dacorum.gov.uk

<b>Report for:</b>	Audit Committee
<b>Title of report:</b>	RIPA – Annual update
<b>Date:</b>	9 <sup>th</sup> November 2022
<b>Report on behalf of:</b>	Councillor Graeme Elliott, Portfolio Holder for Corporate Services
<b>Part:</b>	I
<b>If Part II, reason:</b>	N/A
<b>Appendices:</b>	None
<b>Background papers:</b>	None
<b>Glossary of acronyms and any other abbreviations used in this report:</b>	

## Report Author / Responsible Officer

Mark Brookes, Assistant Director (Legal and Democratic Services)

Nargis Sultan, Legal Governance Team Leader



Mark.brookes@dacorum.gov.uk / 01442 228236 (ext. 2236)

<b>Corporate Priorities</b>	A clean, safe and enjoyable environment Building strong and vibrant communities Ensuring economic growth and prosperity Providing good quality affordable homes, in particular for those most in need
-----------------------------	--

	Ensuring efficient, effective and modern service delivery Climate and ecological emergency
<b>Wards affected</b>	All
<b>Purpose of the report:</b>	To inform the Audit Committee regarding the Council's use of Directed Surveillance and Covert Human Intelligence Sources for the year 2021/22
<b>Recommendation (s) to the decision maker (s):</b>	That Members note the report
<b>Period for post policy/project review:</b>	Annual

## Executive Summary:

The Regulation of Investigatory Powers Act (RIPA) came into force in 2000. The Act allowed:

- Councils to carry out covert surveillance of alleged offenders and to instruct individuals to form relationships with the intention of obtaining information for the prevention and detection of crime.
- Compliance with RIPA ensures that the surveillance actions taken by the Council are acceptable interference of qualified rights within the Human Rights Act 1998, in particular the right to privacy and the right to a fair trial, when gathering evidence in preparing cases for Court.

## 1. Introduction

- 1.1 When undertaking its functions the Council must comply with the Human Rights Act 1998. Article 8 establishes a qualified right to respect for private and family life. In certain circumstances that right may be interfered with.
- 1.2 The Regulation of Investigatory Powers Act 2000 (RIPA) provides a statutory framework under which the Council may seek authorisation to interfere with this right.

## **1 Background**

2.1 Authorisation can only be granted where interference is:

- (a) In accordance with the law
- (b) Necessary
- (c) Proportionate.

2.2 Under RIPA, the Council may seek authorisation to permit directed surveillance, the use of Covert Human Intelligence Sources (CHIS).

2.3 The Council's use of RIPA is tightly controlled. All authorisations are subject to approval by the Magistrates' Court and the use of directed surveillance and acquisition of communication data should only be permitted for :

- (a) The prevention or detection of criminal offences (at least one of which must be punishable by a maximum of at least 6 months imprisonment) or
- (b) Prescribed offences relating to the underage sale of alcohol or tobacco.

2.4 By law, elected members are not permitted to be involved in any individual application/authorisation, however paragraph 3.35 of the Covert Surveillance and Property Interference Code 2018 ('the Code') states that:

*"Elected member's of a local authority should review the authority's use of the 2000 Act and set the policy at least once a year. They should also consider internal reports on the use of the 2000 Act on a regular basis to ensure it is being used consistently with the local authority's policy and the policy remains fit for purpose."*

## **3. Oversight of RIPA activities**

3.1 RIPA and associated statutory Codes of Practice prescribe the information to be included in an application to carry out surveillance activities and the thresholds to be met before applications can be approved.

3.2 The IPCO carries out scheduled audits of the use of RIPA by Local Authorities to monitor quality of applications and compliance with the Codes.

3.3 In addition all authorisations for surveillance activities carried out by the Council under RIPA must be independently reviewed and approved by a Magistrates' Court.

## **4. Annual Review of the use of RIPA – 1<sup>st</sup> April 2021 to 31<sup>st</sup> March 2022**

4.1 During this period there were no applications to use covert human intelligence sources (CHIS), including applications relating to juvenile CHIS.

4.2 During this period there were 4 applications submitted for Directed Surveillance authorisation, all of which were authorised and all of which were granted judicial approval.

4.3 All of these Directed Surveillance operations were concluded during this period.

<b>Activity Authorised</b>	<b>Nature of offence under investigation</b>	<b>Outcome</b>
Directed Surveillance	Flytipping, Markyate (June 2021 – operation reference Kilo 1)	One offender prosecuted and convicted – Fine £1221 plus costs £3,007.71
Directed Surveillance	Flytipping, Markyate, (September 2021 – Operation Reference Lima 1)	No prosecutions
Directed Surveillance	Flytipping, Markyate December 2021 – Mike 1)	No prosecutions.
Directed Surveillance	Flytipping, Markyate March 2022 – November 1)	No prosecutions

## 5. Conclusions

- 5.1 The Council's RIPA policy is kept under review by the Assistant Director, Legal and Democratic Services and it continues to provide an effective framework and provides assurance that the Council is undertaking such powers in a robust and legally compliant manner.
- 5.2 Officers will provide a further annual report to the Audit Committee in June/July 2023 regarding the Council's use of RIPA for the Committee's further consideration.