

Body: **AUDIT AND GOVERNANCE COMMITTEE**

Date: **12 March 2014**

Subject: **The Regulation of Investigatory Powers Act and related legislation: update on the authority's usage of its powers**

Report Of: **LAWYER TO THE COUNCIL AND MONITORING OFFICER**

Ward(s) **All**

Purpose **To assist the Audit and Governance Committee in monitoring the authority's usage of its powers under the Regulation of Investigatory Powers Act**

Recommendations: That the Committee note:
1) that no applications were made by officers of this authority to engage in activity regulated by the Regulation of Investigatory Powers Act during the quarter leading up to 1 March 2014, and
2) that Cabinet is being asked to agree the appended report, which would expand this Committee's remit to include applications to access Communications Data under RIPA.

Contact: Victoria Simpson, Lawyer to the Council and Monitoring Officer, Telephone 01323 415018 or internally on extension 5018. E-mail address: victoria.simpson@eastbourne.gov.uk

1.0 Background

- 1.1 Members will recall that the Audit and Governance Committee has agreed to receive quarterly reports on the authority's usage of its powers to conduct covert surveillance pursuant to the Regulation of Investigatory Powers Act.
- 1.2 Members of this Committee are also asked to note the appended Report to this cycle's Cabinet, which details additional powers given to local authorities to access Communications Data and proposes a policy to cover this.

2.0 Usage of the powers available to Eastbourne Borough Council to conduct covert surveillance under the Regulation of Investigatory Powers Act

- 2.1 The quarterly returns compiled for the period 1/12/2013 to 1/03/2014 include the following data:

RIPA applications for the use or conduct of a CHIS:

Nil applications made by EBC

Nil applications by partner organisations with which the authority is working on relevant matters.

RIPA applications for authorised surveillance:

Nil applications made by EBC

Nil applications made by partner organisations with which the authority is

working on relevant matters.

- 2.2 The Committee will note that the returns for this quarter are consistent with EBC's infrequent recourse to the powers available to it under RIPA in recent years. The last applications by the authority for authorised surveillance were during 2010 and concerned serious allegations of benefit fraud.

3.0 Communications data use and acquisition: a policy which applies a last resort approach to all powers available to local authorities under RIPA

- 3.1 The Cabinet report appended details the powers given to authorities under RIPA to access and use communications data under RIPA and seeks approval for a policy which brings this area into line with the authority's agreed 'last resort' approach to surveillance.

- 3.2 The report to Cabinet (which meets on 19 March) is considered to be self-explanatory. If agreed, it will result in this Committee considering quarterly returns for usage of communications data powers alongside the data currently reported to Committee.

4.0 Consultation

- 4.1 None.

5.0 Resource Implications

- 5.1 None.

6.0 Financial

- 6.1 None.

7.0 Staffing

- 7.1 None.

8.0 Conclusion

- 8.1 This report updates the Committee on the authority's arrangements for and usage of its powers to conduct covert surveillance when circumstances merit. The report aims to equip this Committee to assist the authority in ensuring it applies a robust approach which balances its enforcement responsibilities with the requirement to act at all times in a proportionate and human rights-compliant way.

- 8.2 This Committee is also asked to note the Report to this cycle's Cabinet, which if agreed would bring the authority's approach to its powers with regard communications data in line with those on other covert investigatory tools under RIPA.

Victoria Simpson

LAWYER TO THE COUNCIL AND MONITORING OFFICER

Appendices

Report to Cabinet of 19 March 2014

Background Papers:

Previous reports and minutes of this Committee and of Cabinet.

Articles in the Local Government Lawyer

Resources available from the Officer of the Surveillance Commissioner and from the Interception of Communications Commissioner