

Regulation and Review Committee

15 November 2018

Present: Councillor J Stirling (Chair)
Councillors J Allan, A Austin, K Bolger, T Brady, D Cox,
P Earley, John Hunter, G Madden, M Madden, D McMeekan,
J Mole, T Mulvenna, J O'Shea, A Percy, M Reynolds
and L Spillard.

RQ38/11/18 Apologies for Absence

Apologies for absence were submitted on behalf of Councillors K Osborne and J Wallace.

RQ39/11/18 Substitute Members

Pursuant to the Council's Constitution the appointment of the following substitute member was reported:

Councillor T Brady for Councillor K Osborne.

RQ40/11/18 Declarations of Interest and Dispensations

There were no declarations of interest or dispensations reported.

RQ41/11/18 Minutes

Resolved that the minutes of the meeting of the Regulation and Review Committee held on 20 September 2018 be confirmed as a correct record and signed by the Chair and the minutes of the Regulation and Review panel meetings held on 11 October and 23 October 2018 be noted.

RQ42/11/18 Annual Review of the Council Policy on Covert Surveillance

The Regulation of Investigatory Powers Act 2000 (RIPA) placed covert surveillance on a statutory basis. RIPA enabled certain public authorities, including the Authority, to carry out surveillance operations with statutory protection from legal challenge; this protection was often referred to as the "RIPA shield". North Tyneside Council had adopted a Covert Surveillance Policy to ensure:

- a) the Authority complied with the RIPA Act, Codes of Practice, and guidance from the Investigatory Powers Commissioner's Office (IPCO);
- b) gave effect to the rights of citizens to respect for their private and family lives (pursuant to the Human Rights Act 1998); and
- c) protected the Authority from legal challenge when undertaking surveillance.

To ensure that there was appropriate oversight of the use of the powers by elected

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members the Policy required that:

- An annual report covering the Authority's use of RIPA powers be presented to Cabinet along with a review of the Policy for the coming year.
- Reports were presented to the Regulation and Review Committee on the use of the powers. The Committee's role was to look at compliance, oversight and the use of RIPA and also to determine whether the Policy remained fit for purpose and if not to recommend changes to Cabinet.
- The Elected Mayor received regular updates from the Senior Responsible Officer regarding the Authority's use of the RIPA powers.

The Policy has been subject to an annual review since initial adoption and Cabinet on 26 November 2018 would be considering an updated Policy.

The current Policy had been agreed by Cabinet in November 2017. Following a review of the Policy, a draft copy of the revised draft policy was presented for members' consideration to determine whether the Policy, as amended, remained fit for purpose. Minor typographical amendments had been made but no substantive changes had been proposed.

Regulation and Review Committee was requested to consider the revised draft policy and to recommend the Policy to Cabinet for adoption.

It was explained that since 1 November 2012 there had been no authorisations granted and no report other than the annual review to the Committee had been required. Should an authorisation be granted it would be reported to the next available meeting of the Committee to ensure the requirements for elected member oversight of the use of the Authority's RIPA powers had been discharged.

RIPA provisions could only be used to authorise surveillance activities to detect and prevent serious crime and the two authorising officers of the Authority were required to seek judicial approval from the Magistrates' Courts before any surveillance was undertaken. The Authority had a Central Register of all RIPA and non-RIPA surveillance activity which was maintained and monitored by Law and Governance. As an organisation which used RIPA the Authority was subject to regular inspections by the Investigatory Powers Commissioner's Office (IPCO).

In response to questions, the implications of the RIPA legislation for subject access requests under Freedom of Information regulations and the implications and potential pitfalls of using social media to monitor people was explained to the Committee. Also how any information/data collected by the Authority can only be used for the purpose for which it was collected and cannot be used to create profiles of people was explained. For example, CCTV in the Council's buildings had been installed for safety and the prevention of crime and could therefore not be used as evidence for a disciplinary matter unrelated to those purposes. If any Members had any safeguarding concerns regarding online bullying or grooming these should be reported through the Council's Front Door Service (Tel: 0345 2000 109).

Resolved that (1) the Authority's draft policy on covert surveillance be noted; and (2) the proposed policy be recommended to Cabinet for adoption at its meeting on 26 November 2018.