

AUDIT COMMITTEE

Regulation of Investigatory Powers (RIPA) 21st January 2015

Report of Internal Audit Manager

PURPOSE OF REPORT

To advise Members of the Council's current position regarding the use of surveillance and of the outcome of a recent inspection by the Office of the Surveillance Commissioner. Also to seek Members' endorsement of the updated RIPA Policy.

This report is public

RECOMMENDATIONS

- (1) That the report is noted
- (2) That the Council's current RIPA Policy is endorsed.

1.0 Introduction

- 1.1 Part II of the Regulation of Investigatory Powers Act 2000 (RIPA) governs public authorities' use of covert surveillance and of "covert human intelligence sources" (CHIS).
- 1.2 The legislation was introduced to ensure that individuals' rights are protected while also ensuring that law enforcement and security agencies have the powers they need to do their job effectively.
- 1.3 RIPA requires that when a Council undertakes "directed surveillance" or uses a CHIS, these activities must be authorised in advance by an officer with delegated powers when the relevant criteria are satisfied and, since November 2012 there has been an additional requirement for approval by a Justice of the Peace.
- 1.4 The Council's current policy is attached as Appendix A.
- 1.5 The Home Office's recently issued guidance¹ reaffirms the recommendation that, to attain best practice:

"...elected members 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 use of the 2000 Act on a regular basis to ensure that it is being used consistently with the local authority's policy and that the policy remains fit for purpose."

¹ *Guide on Covert Surveillance and Property Interference (2014)*

2.0 Report

Council Policy and Positioning on Surveillance

- 2.1 The Council's policy, entitled "The Regulation of Investigatory Powers Act 2000 – A Working Policy" was originally established in 2000 in response to the legislation and has undergone minor updates since. The latest updates have been made to reflect changes in the Council's management structures and the implications of legislative changes.
- 2.2 The only purpose for which local authorities are able to rely on RIPA is where the authorisation is necessary "for the purpose of preventing and detecting crime and disorder". Additionally, authorisation is now subject to a 'crime threshold test' under which the crime is punishable by a maximum term of at least 6 months imprisonment.
- 2.3 The Council's "statement of intent" as expressed in the policy is:

"The Council's policy and practice in respect of RIPA is to comply fully with the law and strike a fair and proportionate balance between the need to carry out covert surveillance in the public interest and the protection of an individual's fundamental right to privacy. The Council acknowledges that this policy is very much a living document and will be reviewed and updated in line with the best guidance and advice current at the time."

Control and Monitoring

- 2.4 Public bodies are required to formally establish responsibility for approving RIPA authorisations and the Council has set this at Chief Officer level, there being no downward delegation available.
- 2.5 The Chief Officer (Governance) is the Council's designated "Senior Responsible Officer" in relation to RIPA and thereby responsible for the integrity of the Council's processes, compliance with legislation and engagement with the Commissioners and inspectors. The Chief Officer (Governance) is assisted in this role by the Senior Solicitor.
- 2.6 The Internal Audit Manager performs the role of RIPA Co-ordinator, maintaining the required "central record" of authorisations, monitoring the review, renewal and cancellation of authorisations and performing a quality control role on the paperwork.

Recent Activity and Performance

- 2.7 The Council has never authorised the use of a CHIS. Use made of RIPA in recent years to authorise directed surveillance is summarised in the following table:

Purpose of Surveillance	Number of authorisations					
	2009	2010	2011	2012	2013	2014
Alleged Benefit fraud	1	-	-	1	-	-
Alleged noise nuisances – Digital Audio Tape (DAT) recording equipment used	2	-	-	-	-	-
Alleged vehicle damage – CCTV used.	1	-	-	-	-	-
Internal investigation – suspected email abuse	1	-	-	-	-	-
Operation to combat dog fouling	-	-	-	2	-	-
Alleged food standards contravention	-	-	-	-	-	1
Total of Directed Surveillance Authorisations	5	0	0	2	0	1

2.8 The above table demonstrates that the Council has continued to take a measured approach to its use of RIPA.

Results of Inspections (Office of the Surveillance Commissioner OSC)

2.9 The Council has now been visited by an Assistant Surveillance Commissioner on five occasions since the legislation was introduced, most recently on 26th November 2014. A copy of the inspection report is attached as Appendix B.

2.10 It is pleasing to note the extremely positive tone and content of the report. The two recommendations made in the report have been attended to.

3.0 Details of Consultation

3.1 None.

4.0 Conclusion

4.1 Given the positive report received from the Assistant Commissioner and the continuing limited extent to which the Council engages in surveillance Members are asked to note the report and endorse the Council's RIPA Policy.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

Not applicable

FINANCIAL IMPLICATIONS

None directly arising from this report

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

LEGAL IMPLICATIONS

None arising from the report.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

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