

# AUDIT COMMITTEE

## Regulation of Investigatory Powers (RIPA)

18 April 2012

### 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 current RIPA Policy and approve arrangements for future monitoring of activity.

**This report is public**

#### RECOMMENDATIONS

- (1) That the Council's current RIPA Policy is endorsed.
- (2) That details of any future use made of RIPA is included in the Internal Audit Manager's regular monitoring reports to the Audit Committee.

#### 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 and can only be authorised by an officer with delegated powers when the relevant criteria are satisfied.
- 1.4 The Council's current policy is attached as Appendix A.
- 1.5 The Home Office's most recent guidance<sup>1</sup> recommends 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 at least a quarterly basis to ensure that it is being used consistently with the local authority's policy and that the policy remains fit for purpose."*

<sup>1</sup> *Guide on Covert Surveillance and Property Interference (2010)*

## 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 update was made recently following an inspection visit by Sir David Clarke on 1<sup>st</sup> February 2012.

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"*.

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 Service Head level and above, there being no downward delegation available.

2.5 The Head of 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 Head of 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					
	2007	2008	2009	2010	2011	2012
Alleged Benefit fraud	3	-	1	-	-	-
Alleged noise nuisances – Digital Audio Tape (DAT) recording equipment used	11	4	2	-	-	-
Alleged property nuisance	-	1	-	-	-	-
Alleged vehicle damage – CCTV used.	-	-	1	-	-	-
Internal investigation – suspected email abuse	-	-	1	-	-	-
Operation to combat dog fouling	-	-	-	-	-	1
<b>Total of Directed Surveillance Authorisations</b>	<b>14</b>	<b>5</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>1</b>

- 2.8 The above table demonstrates that the Council has taken a measured approach to its use of RIPA. The most significant development in recent years has been to cease the practice of taking out a RIPA authorisation when investigating alleged noise nuisances. This move was made following advice from the OSC, that authorisation is unnecessary where subjects are informed of the allegation and the Council's intention to use recording equipment.
- 2.9 The authorisation relating to a specific targeted operation to combat dog fouling was taken out on 19<sup>th</sup> March 2012 to cover a one week period. A verbal update on the outcomes from this operation will be given at the meeting.
- 2.10 As well as being responsible for managing its own authorisations, the Council may also facilitate Police investigations through the targeted use of the CCTV installation. In such cases the CCTV Supervisor ensures that the Police have a valid authorisation in place before deploying the CCTV cameras in this way.

### **Results of Inspections (Office of the Surveillance Commissioner OSC)**

- 2.11 The Council has been visited by an Assistant Surveillance Commissioner on four occasions since the legislation was introduced, in October 2002, March 2006, February 2009 and most recently on 1<sup>st</sup> February 2012. A copy of the latest inspection report is attached as Appendix B.
- 2.12 It is pleasing to note that, aside from two minor points raised by the Assistant Commissioner concerning paperwork and the policy (which were immediately attended to), the Council has received a very positive report on its arrangements.

### **3.0 Details of Consultation**

- 3.1 None.

### **4.0 Options and Options Analysis (including risk assessment)**

- 4.1 Option 1 – The Home Office's recommended best practice as set out in §1.5 can be met if Members endorse the Council's RIPA Policy, the supporting structures and procedures and the Council's current approach to engaging in surveillance activity. As regards ongoing monitoring, details of RIPA use can be routinely included in the Internal Audit Manager's quarterly monitoring reports to Audit Committee.
- 4.2 Option 2 – Members may wish to consider whether any alternative arrangements to those currently in place are appropriate.
- 4.3 Given the positive report received from the Assistant Commissioner and the continuing limited extent to which the Council engages in surveillance, Option 1 is felt to be appropriate at the current time and is the preferred option.

### **5.0 Conclusion**

- 5.1 Members are asked to consider and endorse the Council's RIPA Policy and approve arrangements for the Committee to receive future reports on relevant activity.

**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**

**Contact Officer:** Derek Whiteway  
**Telephone:** 01524 582028  
**E-mail:** [dwhiteway@lancaster.gov.uk](mailto:dwhiteway@lancaster.gov.uk)  
**Ref:** aud/comm/audit/180412RIPA