

**To the Chair and Members of the
AUDIT COMMITTEE**

**COVERT SURVEILLANCE - REGULATION OF INVESTIGATORY POWERS ACT 2000
(RIPA) UPDATE**

EXECUTIVE SUMMARY

1. The Council uses the Regulation of Investigatory Powers Act 2000 (RIPA) to conduct covert surveillance to investigate matters that the Council has responsibility to take action against.
2. Home Office Orders on 6th April, 2010 brought in new codes of practice which included a recommendation that Councillors should be involved in overseeing covert surveillance. It was agreed at the Audit Committee on 27th July 2010 that the Committee should receive a yearly report reviewing the Authority's use of RIPA and its Policy, together with a quarterly update on covert surveillance undertaken. The Council has set out its RIPA surveillances undertaken in the last quarter of 2012 in **Appendix 1**.
3. Also referred to in this report at **Appendix 2** is an inspection report following an inspection undertaken on October 2012 by Assistant Surveillance Commissioner HH Norman Jones QC. The inspection report is largely favourable, while identifying some actions needed to address weaknesses in current processes. Due to the confidential nature of the surveillance operations and on-going court proceedings in individual cases referred to, some of the specific details in the inspection report have been redacted.
4. An action plan to implement the inspector's recommendations is included at **Appendix 3**.

RECOMMENDATIONS

5. **That the Committee should note RIPA applications that have been completed since the September 2012 Report.**
6. **That the Committee should note the Inspection Report following the inspection carried out by the Surveillance Commissioner HH Norman Jones QC on October 2012 and the Council's action plan.**

BACKGROUND

7. The Regulation of Investigatory Powers Act 2000 was introduced in response to the Human Rights Act 1998 to ensure that Local Authorities could continue to lawfully carry out covert surveillance. The Government also established the Office of Surveillance Commissioners who inspect local authorities' compliance with the Act. The Council has had four inspections in 2003, 2004, 2009 and most recently in November 2012.

8. The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) ((Amendment) Order 2012 came into force on 1st October 2012. This provides that directed surveillance can now only be authorised under RIPA where the criminal offence sought to be prevented or detected is punishable by a maximum of at least 6 months imprisonment or would constitute an offence involving the sale of tobacco and alcohol to underage children.
9. Directed surveillance cannot be used for the purpose of tackling anti-social behaviour unless the activity involves criminal offences carrying a maximum prison term of six months or more.
10. Also recently introduced are the provisions of the Protection of Freedoms Act 2012, which requires local authorities to have all their RIPA surveillance authorisations approved by a Magistrate before they take effect. There have not been any RIPA applications taken for Magistrates approval.

OPTIONS CONSIDERED

11. To not follow the Code of Practice's revised recommendations with regard to Members seeing the reports would lead to criticism by the Office of Surveillance Commissionaires.
12. To fail to follow the Inspection reports recommendations would lead the authority open to criticism.

REASONS FOR RECOMMENDED OPTION

13. This will ensure that we are properly and lawfully carrying out covert surveillance where it is necessary.

RISKS & ASSUMPTIONS

14. To fail to follow the new Regulations and Inspection report will put us at risk of criticism by the Surveillance Commissionaires.

LEGAL IMPLICATIONS

15. The Regulation of Investigatory Powers (Covert Surveillance and Property Interference: Codes of Practice) Order 2010 and the Regulation of Investigatory Powers (Covert Human Intelligence Sources: Code of Practice) Order 2010 have brought into force revised Codes of Practice on Covert Surveillance and use of Covert Human Intelligence Source (CHIS). Failure to follow their guidance and the Inspection report would lead to criticism at the next inspection of the surveillance commissioner and may be challenged in a court case relying on RIPA evidence.

FINANCIAL IMPLICATIONS

16. There are no specific implications to the recommendations of this report. Where covert surveillance is used the costs are met from within individual service budgets.

17. This report has significant implications in terms of the following:

<u>Procurement</u>		Crime & Disorder	
Human Resources		Human Rights & Equalities	X
Buildings, Land and Occupiers		Environment & Sustainability	
ICT		Capital Programme	

BACKGROUND PAPERS


18. Appendix 1- Details of RIPA surveillances since the September 2012 report.


Appendix 2 – RIPA Inspection Report and

Appendix 3 – Inspection Report Action Plan

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