

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. Home Office Orders on 6th April, 2010 brought in new codes of practise which included recommendations that it is best practise that Councillors are 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 and quarterly it will receive an update on covert surveillance that has taken place. This is the yearly report.

RECOMMENDATIONS

2. That the Committee should note RIPA applications that have been completed since the July 2013 Report. There has only been 1 matter that has been completed since the last report, and 2 matters are on-going (all in bold within appendix 1). To avoid prejudicing the on-going cases no details are shown. The Magistrates have not refused any RIPA applications.
3. That the Committee should note that the action plan following the Inspection carried out by the Surveillance Commissioner HH Norman Jones QC on 18th October 2012 has been substantially completed (Appendix 3). This includes updating the policy and procedures which are attached for the Committee to consider (Appendix 2).

BACKGROUND

4. The Regulation of Investigatory Powers Act 2000 was introduced in response to the Human Rights Act 1998 to ensure that Local Authorities could continue lawfully to carry out covert surveillance. The Government also set up the Office of Surveillance Commissioners who regularly inspects Local Authorities. The Council has had four inspections in 2003, 2004, 2009 and most recently in October 2012. The updated action plan following the latest inspection is attached (appendix 3). The only outstanding matter is that we are awaiting confirmation from South Yorkshire police that the document detailing the protocol for police use of CCTV has been signed by all parties.
5. The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012 came into force on 1st November 2012. This provides that directed surveillance can 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 sale of tobacco and alcohol to underage children.

6. The Protection of Freedoms Act 2012 also requires local authorities to have all their RIPA surveillance authorisations approved by a Magistrate before they take effect.
7. The Policy and Procedure for DMBC was updated following the 2012 legislation changes and the inspection and is attached for your review and comment (at appendix 2). The inspector recommended the following changes:
 - 7.1 Removal of urgency provisions due to the change in legislation (see para 8.6 and 16.6 of policy)
 - 7.2 Detail on proportionality (see three stage test at paragraph 8.4 and 16.4)
 - 7.3 Detail on equipment register (see paragraph 26.10)
 - 7.4 Making it clear what the Head of Paid service can alone authorise (see 6.3,14.6, 14.7
 - 7.5 Outline the role of the Senior Responsible Officer and the RIPA coordinator (26.1, 26.2)
 - 7.6 In the CHIS process require the consider of the SRO/RIPA coordinating officer (at 14) and detail the work of the controller, handler and recorder (see 16.5(f)).

OPTIONS CONSIDERED

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

REASONS FOR RECOMMENDED OPTION

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

RISKS & ASSUMPTIONS

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

LEGAL IMPLICATIONS

12. 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.

FINANCIAL IMPLICATIONS

13. 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.

14. 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


15. Appendix1 – Details of RIPA surveillances since the July 2013 report.

Appendix 2- DMBC Policy and procedure

Appendix 3- Action plan following inspection

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