

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 statutory codes of practise include 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 update reports on covert surveillance which had taken place. At the Audit Committee on 17th July 2014 it was agreed that the quarterly reports could be replaced with six monthly reports due to the low number of covert surveillance taking place. This is the annual report.

RECOMMENDATIONS

2. That the Committee should note the RIPA applications that have been completed since the July 2014 report, attached at Appendix 1. There have only been two matters authorised since the last report and these matters are on-going. All other matters have been concluded and the details of the outcome of these are referred to. To avoid prejudicing the on-going cases only brief details are shown. The magistrates have not refused any RIPA applications.
3. That the Committee note and accept the amendment to the RIPA procedures (at Appendix 3) at paragraph 22 with regard to the use of social media and at paragraph 27.3 with regard to the frequency of reports to Audit Committee.
4. That the Committee review and accept the RIPA policy and procedure at Appendices 3 and 4.
5. That the Committee note the two new statutory codes of practise that became law on the 10th December 2014.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

6. RIPA policies and procedures ensure that the Council has proper arrangements in place to comply with the law relating to RIPA authorisations and covert surveillance and that it is properly and lawfully carrying out covert surveillance where it is necessary.

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 lawfully to carry out covert surveillance. The government also set up the office of surveillance commissioners who regularly inspect local authorities. The Council has had four inspections in 2003, 2004, 2009 and most recently in October 2012. The action plan following the latest inspection has been completed by the authority. 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.
8. 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.
9. The Protection of Freedoms Act 2012 also requires local authorities to have all their RIPA surveillance authorisations (both directed and CHIS surveillance) approved by a Magistrate before they take effect.
10. Appendix 1 details the recent covert surveillance authorisations. Authorisations have been provided from April 2014 as these have been updated to show the outcomes from these surveillances.
11. New codes of practice with regard to Directed Surveillance and Covert Human Intelligence Sources became law in December 2014. These are attached at Appendix 2. They are available on the Council's intranet site on the covert surveillance pages. At the last Committee it was agreed that due to the low occurrence of RIPA's 6 monthly reports would be received rather than quarterly (which the previous Codes had stated). As part of the consultation for the new Codes, Doncaster Council had recommended that this be amended. The new codes reflect that an annual review by Councillors should remain with updates on a 'regular basis' (see paragraph 3.27 of the Covert Human Intelligence Source Code and paragraph 3.35 of the Directed Surveillance Code).
12. In addition the use of social media for surveillance has been referred to in the Surveillance Commissioner's annual report (see extract from the annual report at Appendix 5 at section 5.30 -5.33) and therefore to reflect its use as a surveillance device our procedure has been amended at paragraph 22 (Appendix 3) setting out the use of social media for surveillance.

OPTIONS CONSIDERED

13. 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 Commissioners.
14. To fail to follow the Inspection reports recommendations would lead the authority open to criticism.

REASONS FOR RECOMMENDED OPTION

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

IMPACT ON THE COUNCIL'S KEY PRIORITIES

- 16.

	Priority	Implications
	We will provide strong leadership and governance, working in partnership.	The work undertaken by the Audit Committee helps to ensure that the systems of covert surveillance used by the Council are overseen ensuring good governance arrangements and compliance with the law and statutory codes.

RISKS AND ASSUMPTIONS

17. To fail to follow the regulations and inspection report will put us at risk of criticism at the next inspection by the surveillance commissioners. However considering the low level of RIPA usage it would seem expedient and appropriate to have the annual report and then a review report at six months. It is considered this can be justified to the Commissioners at the next inspection.

LEGAL IMPLICATIONS

18. Failure to follow the law and the statutory codes 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

19. 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.

HUMAN RESOURCES IMPLICATIONS

20. There are no human resources implications arising directly from the report.

TECHNOLOGY IMPLICATIONS

21. There are no specific technology implications arising directly from this report.

EQUALITY IMPLICATIONS

22. Decision makers must consider the Council's duties under the Public Sector Equality Duty at s149 of the Equality Act 2010. The duty requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. There are no specific equality implications arising directly from this report.

CONSULTATION

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

Procurement		Crime & Disorder	
Human Resources		Human Rights & Equalities	x
Buildings, Land and Occupiers		Environment & Sustainability	
ICT		Capital Programme	

BACKGROUND PAPERS

24. None

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