

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

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

EXECUTIVE SUMMARY

- 1.1 The Council occasionally has a need to conduct covert surveillance in the investigation of matters for which it has responsibility to prosecute or for other authorised intelligence gathering. On such occasions, the Regulation of Investigatory Powers Act 2000 (RIPA) regulates how covert surveillance is undertaken. The Home Office statutory Codes of Practice recommend that best practice is followed if Councillors are involved in overseeing covert surveillance.
- 1.2 At its meeting held on 27th July 2010, Audit Committee agreed that it should receive reports reviewing the Councils use of RIPA. As agreed in 2014, these reports are brought on a six monthly reports basis due to the limited number of covert surveillances taking place. A yearly report and a six monthly update report are brought each year, this is the yearly report.

RECOMMENDATIONS

2. To approve the Council's RIPA procedure, attached at appendix 1.
3. To note that 4 RIPA applications have been authorised since the last report in April 2016, attached at Appendix 2. No RIPA applications have been refused by the Magistrates.
4. To note the actions concerning online training following the recommendation of the Audit Committee in November 2016.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

5. RIPA policies and procedures ensure that the Council has appropriate 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 required.

BACKGROUND

6. 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 been subjected to five inspections namely, 2003, 2004, 2009, 2012 and most recently in January 2016.

7. 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 or alcohol to underage children.
8. The Protection of Freedoms Act 2012 also requires Local Authorities to have all their RIPA surveillance authorisations (both directed and Covert Human Intelligence Sources (CHIS)) approved by a Magistrate before they take effect.
9. The Council's RIPA procedure is reviewed as part of the yearly report. The Procedure was last amended in response to the Surveillance Commissioner's Inspection on 5th January 2016 and approved at Audit Committee in April 2016. The current procedure is attached at Appendix 1
10. Appendix 2 details the covert surveillance authorisations since the last report in April 2016 and an update on earlier authorisation outcomes from recently completed matters. Where an authorised surveillance involves a number of premises this is now detailed in the Appendix.
11. A recommendation from the Surveillance Commissioners Inspection on 5th January 2016 was to arrange a training programme to improve RIPA knowledge. An external trainer with expertise in the field provided training on the 7th April 2016 for those within the Council whose work regularly involves RIPA. An online RIPA course is now live on the training portal. Following a recommendation from the Audit Committee on 17th November 2016 that all managers should complete the RIPA training course, a group of managers and teams were identified and the process was completed to make this training compulsory. These officers have been instructed to complete the training and an update on the number who have done so will be provided at committee. HR also recommended that the online course should be strongly recommended to all Heads of Service and an email has been sent requesting them to complete the course. Audit committee members were also invited to complete the online course. In addition, annual in-house training is to be provided to those staff who regularly use RIPA and the training this year will take place on 20th July 2017. It should be noted that only a very limited number of departments within the Council are involved in covert surveillance activities.

OPTIONS CONSIDERED

12. Failing to follow the revised recommendations of the RIPA Code of Practice with regard to members seeing the reports would lead to criticism at the next inspection by the Office of Surveillance Commissioners.
13. Failing to follow the recommendations of the Inspection Report would leave

the Authority open to criticism.

REASONS FOR RECOMMENDED OPTION

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

IMPACT ON THE COUNCIL'S KEY OUTCOMES

15.

	Outcomes	Implications
	Working with our partners we will provide strong leadership and governance.	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

16. Failing to follow the Law, Regulations and Inspection report will put us at risk of criticism at the next inspection by the Surveillance Commissioners.

LEGAL IMPLICATIONS

17. The Regulation of Investigatory Powers Act 2000 provides Local Authorities with the mechanism in which they can carry out covert surveillance without breaching individuals' human rights under Article 8 of the Human Rights Act 2000. Failure to follow the law, statutory codes and the inspection report could be the subject of a challenge in court proceedings where RIPA powers were relied upon and also would lead to criticism at the next inspection by the Surveillance Commissioner. The Covert Surveillance and Covert Human Intelligence Source codes of practise provide that '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.'

FINANCIAL IMPLICATIONS

18. There are no specific implications due to the recommendations of this report. Where Covert Surveillance is used the costs are met from within individual service budgets.

HUMAN RESOURCES IMPLICATIONS

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

TECHNOLOGY IMPLICATIONS

20. There are no technology implications arising directly from the report.

EQUALITY IMPLICATIONS

21. 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.

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