

**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 uses the Regulation of Investigatory Powers Act 2000 (RIPA) as its authority to conduct covert surveillance in the investigation of matters which it has responsibility to prosecute. Home Office statutory Codes of Practice recommend that best practice is followed if Councillors are involved in overseeing covert surveillance.
- 1.2** At the Audit Committee on 27th July 2010 it was agreed 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 limited number of covert surveillances taking place. This is the yearly report.

RECOMMENDATIONS

- 2.** That the Committee should note the inspection report at Appendix 1 and the Council's action plan at Appendix 2. The inspection was carried out by the Surveillance Commissioner HH Norman Jones QC on 5th January 2016.
- 3.** That the Committee should note the 6 RIPA applications that have been completed in the year from April 2015 and the update of the outcome of these matters shown at Appendix 3. Five matters have been authorised since the last report on RIPA was brought to the Audit Committee in September 2015 and two of these have been concluded, the details of the outcome of these are only briefly mentioned to avoid prejudicing the on-going cases. No RIPA applications have been refused by the Magistrates during the period to which this report relates.
- 4.** The Council's RIPA procedure is reviewed as part of the yearly report and this has been amended in response to the inspection which is detailed in the action plan at Appendix 2. The current amended procedure is attached at Appendix 4.

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. The Surveillance Commissioner's Report and the Council's action plan following the latest inspection is attached at Appendices 1. and 2.

The three recommendations were:

1. to amend the central record to show the date the authorising officer approved the surveillance.
2. to arrange a training programme to improve RIPA knowledge; and.
3. to amend the RIPA procedure documentation.

Further details with regard to these are show in Appendix 2.

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 and 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. Appendix 3 details the covert surveillance authorisations in the last financial year and an update on the outcomes from completed matters.

OPTIONS CONSIDERED

10. 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.

11. Failing to follow the recommendations of the Inspection Report would leave the Authority open to criticism.

REASONS FOR RECOMMENDED OPTION

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

IMPACT ON THE COUNCIL'S KEY OUTCOMES

13.

	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

14. Failing to follow the regulations and Inspection report will put us at risk of criticism at the next inspection by the Surveillance Commissioners. Bearing in mind the limited extent of RIPA usage it would seem expedient and appropriate to have an initial annual report and then a review report after six months. It is considered this can be justified to the Commissioners at the next inspection.

LEGAL IMPLICATIONS

15. Failure to follow the law and the statutory codes and the Inspection Report would lead to criticism at the next inspection by the Surveillance Commissioner and could be the subject of a challenge in court proceedings where RIPA powers were relied upon.

FINANCIAL IMPLICATIONS

16. 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

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

TECHNOLOGY IMPLICATIONS

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

EQUALITY IMPLICATIONS

19. 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.

REPORT AUTHOR & CONTRIBUTORS

Helen Potts
Principal Legal Officer
01302 734631 helen.potts@doncaster.gov.uk

Jo Miller
Chief Executive