

**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 Audit Committee on 27<sup>th</sup> July 2010 it was agreed that the Committee should receive reports reviewing the Authority's use of RIPA. At the Audit Committee on 17<sup>th</sup> 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 half yearly report.

**RECOMMENDATIONS**

2. That the Committee should note the Action Plan following the inspection was carried out by the Surveillance Commissioner HH Norman Jones QC on 5<sup>th</sup> January 2016 has been completed.
3. That the Committee should note the RIPA applications that have been authorised since the last report in April 2016, attached at Appendix 1. No RIPA applications have been refused by the Magistrates during the period to which this report relates.

**WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?**

4. 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**

5. 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 three recommendations and actions from the January 2016 inspection were:

1. to amend the central record to show the date the authorising officer approved the surveillance. The form previously only showed when the Magistrates had approved the surveillance This has been done
  2. to arrange a training programme to improve RIPA knowledge. An external trainer with expertise in the field provided training on the 7<sup>th</sup> April 2016 for those within the Council whose work regularly involves RIPA. Internal training will be provided in April 2017. An online RIPA course has been developed but we are currently waiting for it to be changed to the new Adapt format so that it can be released to all council employees as an introduction to RIPA.
  3. to amend the RIPA procedure documentation. This has been completed.
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6. The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012 came into force on 1<sup>st</sup> 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.
  7. 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.
  8. Appendix 1 details the covert surveillance authorisations since the last report in April 2016 and an update on ones from recently completed matters. Where an authorised surveillance involves a number of premises this is now detailed in the Appendix.

## **OPTIONS CONSIDERED**

9. 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.
10. Failing to follow the recommendations of the Inspection Report would leave the Authority open to criticism.

## REASONS FOR RECOMMENDED OPTION

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

## IMPACT ON THE COUNCIL'S KEY OUTCOMES

12.

	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

13. 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

14. 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

15. 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

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

## **TECHNOLOGY IMPLICATIONS**

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

## **EQUALITY IMPLICATIONS**

18. 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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