

Subject: Annual Surveillance Report (December 2013)
Date of Meeting: 5 December 2013
Report of: Executive Director for Finance & Resources
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Ward(s) affected: All

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT:

- 1.1 The purpose of the report is to appraise Committee of the activities that have been undertaken utilising the powers under the Regulation of Investigatory Powers Act 2000 (RIPA) since the last report to Committee in September 2012 and to confirm that these activities were authorised in line with the necessity and proportionality rules.

2. RECOMMENDATIONS:

- 2.1 That the continued use of covert surveillance be approved as an enforcement tool to prevent and detect crime and disorder investigated by its officers, providing the activity is in line with the Council's Policy and Guidance and the necessity and proportionality rules are stringently applied.
- 2.2 That the surveillance activity undertaken by the authority since the report to Committee in September 2012 as set out in Appendix 2 be noted;
- 2.3 That the continued use of the Policy and Guidance document as set out in Appendix 3 be approved.

3. CONTEXT / BACKGROUND INFORMATION:

- 3.1 The Regulation of Investigatory Powers Act 2000 (RIPA) is the law governing the use of covert surveillance techniques by Public Authorities, including local authorities. RIPA was enacted as part of a suite of legislation flowing from the implementation of the Human Rights Act 1997. The Act requires that when public authorities need to use covert techniques to obtain information about someone, they do it in a way that is necessary and proportionate and compatible with human rights.
- 3.2 RIPA regulates the interception of communications, directed and intrusive surveillance and the use of covert human intelligence sources (informants). Local authorities may only carry out directed surveillance, access certain communications data and use informants.

- 3.3 Appendix 2 details the uses made by the Council over the last year.
- 3.4 The Protection of Freedoms Act received Royal assent and was enacted from 1st November 2012. Since enactment, approval must be sought from a Magistrate when local authorities wish to conduct surveillance activity, access communications data or use an informant. This is in addition to the authorisation by an Authorising Officer who meets the criteria regarding their position within the authority.
- 3.5 In addition to seeking the approval of a Magistrate, all applications must meet the Serious Offence test. This stipulates that any directed surveillance is restricted to the investigation of offences that carry a custodial sentence of six months or more. The only offence where this will not apply is in regard to underage sales of alcohol and tobacco.
- 3.6 Officers have received training over the last year following a recommendation from the Surveillance Commissioner during her audit in June 2012 that annual training should be provided for both applicants and authorising officers.
- 3.7 The Policy and Guidance document attached at Appendix 3 was updated in June 2012 to take into consideration, recommendations made by the Surveillance Commissioner and the introduction of the Protection of Freedoms Act. It has been updated in September 2013 purely to reflect changes in job titles.

4. ANALYSIS AND CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The only alternative is to curtail the use of RIPA, but this is not considered an appropriate step.

5. COMMUNITY ENGAGEMENT AND CONSULTATION

- 5.1 There has been no consultation in the compilation of this report

6. CONCLUSION

- 6.1 It is essential that officers are able to use the RIPA powers where necessary and within the new threshold, but only after excluding all other methods of enforcement. An authorisation will only be given by the relevant 'Authorising Officer' following vetting by the 'Gatekeeper', therefore it is unlikely that the powers will be abused. There is also now the additional safeguard of judicial sign off.
- 6.2 The implementation of the Annual review has made the whole process transparent and demonstrates to the public that the correct procedures are followed

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 There are no direct financial implications arising from the recommendations in the report required for approval.

Finance Officer Consulted: Steven Bedford Date: 03/09/13

Legal Implications:

- 7.2 The legal framework governing the use of covert surveillance and accessing communications data is addressed in the body of the report. The Council's updated policy and reporting measures set out at Appendix 2 ensure that the powers are exercised lawfully, proportionately and consistently.

Lawyer Consulted: Elizabeth Culbert Date: 9th September 2013

Equalities Implications:

- 7.3 The proper and consistent application of the RIPA powers should ensure that a person's basic human rights are not interfered with, without justification. Each application will be assessed by the gatekeeper for necessity and proportionality prior to the authorisation by a restricted number of 'Authorising Officers'. The application will also be signed off by a Magistrate. This process should identify any inconsistencies or disproportionate targeting of minority groups and enable action to be taken to remedy any perceived inequality.

Sustainability Implications:

- 7.4 There are no sustainability implications

Any Other Significant Implications:

Risk and Opportunity Management Implications:

- 7.5 Any failure to comply with the provisions of the legislation could render any evidence obtained as inadmissible, resulting in a failed prosecution and have a detrimental impact on the Council's reputation

SUPPORTING DOCUMENTATION

Appendices:

1. Other Implications
2. Detail of the use of RIPA since September 2012
3. Policy and Guidance document

Documents in Members' Rooms

None

Background Documents

None

Crime & Disorder Implications:

- 1.1 If used appropriately, the activities described in the report should enhance our capacity to tackle crime and disorder.

Public Health Implications:

- 1.2 There are no public health implications

Corporate / Citywide Implications:

- 1.3 Proper application of the powers will help to achieve fair enforcement of the law and help to protect the environment and public from rogue trading and illegal activity.