

<b>6REPORT TO</b>	<b>DATE OF MEETING</b>
Governance Committee	27 November 2013

Report template revised June 2008



<b>SUBJECT</b>	<b>PORTFOLIO</b>	<b>AUTHOR</b>	<b>ITEM</b>
REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)	NOT APPLICABLE	DAVID WHELAN	8

## SUMMARY AND LINK TO CORPORATE PRIORITIES

The report summarises the outcome of a recent inspection of the Council's RIPA regime by the Office of Surveillance Commissioners.

The report links to the corporate priority of "Efficient, effective and exceptional Council."

## RECOMMENDATIONS

That Committee note the contents of this report

## DETAILS AND REASONING

The Regulation of Investigatory Powers Act 2000 (RIPA) provides the legislative framework within which any covert surveillance operations to be carried out by a council must be conducted in order to ensure that investigatory powers are used in accordance with Human rights.

Further to this the Council has a policy in place which sets out the procedures that will be followed whenever any covert surveillance is carried out. Such surveillance must be carried out for a specific operation or investigation. Under the terms of our policy any such surveillance must be first authorised by a relevant Director/Head of Service. The general philosophy informing our policy has always been that such surveillance will only be authorised where it is strictly necessary.

Periodically the Office of Surveillance Commissioners visits council offices to carry out an inspection of the RIPA arrangements in place to make sure that the particular Council is complying with all relevant legislation and guidance. Earlier this year such an inspection took place.

The RIPA policy had recently been amended as changes were necessary due to a change of legislation – in particular to changes to the RIPA regime brought in by the Protection of Freedoms Act 2012. The Government had been concerned that councils were making too extensive a use of their RIPA powers – in particular that councils were using these powers in relation to what they considered to be minor offences e.g. dog fouling. Hence the rules relating to surveillance activities were tightened up.

The main changes were:

Use of directed surveillance only for the purpose of preventing or detecting crime;

Criminal offence under consideration must carry with it a custodial sentence of at least 6 months;

Exemption to the 6 month requirement if the offences relate to the sale of alcohol or tobacco to minors;

Authorised surveillance must now also receive judicial approval by a magistrate

Changes to our RIPA policy were made to reflect these changes in legislation.

On the 4<sup>th</sup> of September 2013 Sir David Clarke (Assistant Commissioner) carried out the inspection of our RIPA arrangements (please see the Appendix attached to this report). The Assistant Commissioner noted: "SRBC is now a very sparing user of its RIPA powers, having granted no directed surveillance authorisations since the last inspection (*in 2010*). Only two had been made in the period of three years since the inspection by Lord Colville in 2007."

The Assistant Commissioner considered the Council's policy statement to be a clear, thorough and useful document. Sir David went on to say: "I was pleased to see a useful new section on the approach to be adopted in investigating social networking sites, drawing attention to the need for directed surveillance authorisations or – if a relationship is to be established by, for example, asking to become a friend – a CHIS authorisation."

The Assistant Commissioner only made one recommendation in his report. Although overall he was very complimentary about our policy nevertheless he did consider that some minor amendments were desirable. His specific recommendation was: "That SRBC's RIPA Policy be further revised in accordance with this report."

Sir David concluded in his report : " As at the 2010 inspection which I attended, I found knowledgeable, committed and conscientious senior officers and a sound RIPA structure. The arrangements for training and the updating of the Policy are commendable, in an authority which makes so little use of its RIPA powers but in which it is essential that RIPA awareness is maintained."

Subsequent to the report officers have amended further the Council's RIPA policy to reflect both the written report of the Assistant Commissioner and also verbal comments made at the inspection. The amended policy may now be seen on the Council's website.

## WIDER IMPLICATIONS

In the preparation of this report, consideration has been given to the impact of its proposals in all the areas listed below, and the table shows any implications in respect of each of these.

<b>FINANCIAL</b>	None arising from this report
<b>LEGAL</b>	It is important that we have a robust RIPA regime in place.  Failure to comply with RIPA requirements could result in some evidence obtained by surveillance being ruled inadmissible by the courts. A failure to comply with RIPA could also lead to a claim of breach of Human Rights.
<b>RISK</b>	The main factors are set out in the Legal implications section – a failure to comply with RIPA could lead to difficulties with any prosecutions we bring as potentially resulting in claims against the Council.

<b>THE IMPACT ON EQUALITY</b>	There are no adverse impacts on equality issues arising from this report
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<b>OTHER (see below)</b>	
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<i>Asset Management</i>	<i>Corporate Plans and Policies</i>	<i>Crime and Disorder</i>	<i>Efficiency Savings/Value for Money</i>
<i>Equality, Diversity and Community Cohesion</i>	<i>Freedom of Information/ Data Protection</i>	<i>Health and Safety</i>	<i>Health Inequalities</i>
<i>Human Rights Act 1998</i>	<i>Implementing Electronic Government</i>	<i>Staffing, Training and Development</i>	<i>Sustainability</i>

**BACKGROUND DOCUMENTS**

Updated RIPA policy statement