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<b>REPORT TO:</b>	<b>Overview and Scrutiny Committee</b>	<b>AGENDA ITEM: 7</b>
<b>DATE OF MEETING:</b>	<b>12<sup>th</sup> February 2014</b>	<b>CATEGORY: DELEGATED</b>
<b>REPORT FROM:</b>	<b>Chief Executive</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>Ardip Kaur – 595715 ardip.kaur@south-derbys.gov.uk</b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>Regulation of Investigatory Powers Act 2000 (RIPA) – Authorising Officers &amp; Report on Usage</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>All</b>	<b>TERMS OF REFERENCE:</b>

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## **1.0 Recommendations**

- 1.1 To approve the amendments to the Council's Authorising Officers and update the RIPA Policy and Procedure document in line with organisational change.
- 1.2 To consider the internal report on the Council's use of the Regulation of Investigatory Powers Act 2000 in the last quarter.

## **2.0 Purpose of Report**

- 2.1 To approve the amendments made to the Council's Authorising Officers and update the Policy and Procedure document accordingly (Appendix 1).
- 2.2 To receive a report on the Council's use of the Regulation of Investigatory Powers Act 2000 ("RIPA") since November 2013.

## **3.0 Detail**

- 3.1 Sections 37 and 38 of the Protection of Freedoms Act 2012 came into force in November 2012. In line with this legislation, if the Council wishes to authorise the use of directed surveillance, the acquisition of communications data and use a covert human intelligence source (CHIS) under RIPA, it will need to obtain an Order approving the grant or renewal of an authorisation or Notice from a District Judge or lay Magistrate (JP) before it can take effect.
- 3.2 Further change by way of amendment to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 also came into effect on 1<sup>st</sup> November 2012. The amendments relate to the directed surveillance crime threshold.
- 3.3 Full Council on 24<sup>th</sup> January 2013 approved the Council's amended RIPA Policy and Guidance document. The Overview and Scrutiny Committee is authorised to review the Council's use of RIPA, set the Council's general surveillance policy, and consider

quarterly reports on the use of RIPA to ensure that it is being used as per the Council's policy.

- 3.3 RIPA is intended to regulate the use of investigatory powers and ensure they are used in accordance with human rights. This is achieved by requiring certain investigations involving covert surveillance to be authorised by an appropriate Authorising Officer and then a JP before they are carried out.
- 3.4 Directed surveillance is often conducted by local authorities to investigate benefit fraud or to collect evidence of anti-social behaviour. It may involve covertly following people, covertly taking photographs of them or using hidden cameras to record their movements.
- 3.5 RIPA stipulates that the person (Authorising Officer) granting an authorisation for directed surveillance must believe that the activities to be authorised are necessary on one or more statutory grounds. The members of the Corporate Management Team, identified in the Council's Policy and Procedure, consider all applications for authorisation. The Authorising Officer must ensure that there is satisfactory reason for carrying out the surveillance, the covert nature of the investigation is necessary, proper consideration has been given to collateral intrusion, and the proposed length and extent of the surveillance is proportionate to the information being sought. This involves balancing the seriousness of the intrusion into the privacy of the subject of the operation against the need for the activity in investigative and operational terms. Following legislative changes, in addition to the aforementioned, the Council is required to obtain judicial approval prior to using covert techniques and the Councils use of directed surveillance under RIPA will be limited to the investigation of crimes which attract a six month or more custodial sentence.
- 3.6 The usage of RIPA during the period November 2013 to January 2014 has been nil. No authorisations have been requested or granted.

#### **4.0 Financial Implications**

- 4.1 None arising directly from this report.

#### **5.0 Corporate Implications**

- 5.1 The Council must act in accordance with recent legislative changes regarding the authorisation process and the surveillance crime threshold.

#### **6.0 Community Implications**

- 6.1 Covert surveillance is carried out in a manner calculated to ensure that the person subject to the surveillance is unaware of it taking place. The Council carries out directed surveillance which is covert, not intrusive, is not carried out in an immediate response to events, and is undertaken for the purpose of a specific investigation or operation in a manner likely to obtain private information about an individual.
- 6.2 Section 8 of the application form asks the applicant to supply details of any potential collateral intrusion and to detail why the intrusion is unavoidable. The idea behind collateral intrusion is to identify who else, apart from the subject of the surveillance, can be affected by the nature of the surveillance. Any application for authorisation should include an assessment of the risk of the collateral intrusion and this should be taken into account by the Authorising Officer when considering proportionality. The Authorising Officer needs to know by those carrying out the surveillance if the investigation or operation would unexpectedly interfere with the privacy of individuals

not covered by the authorisation. An Authorising Officer must be made aware of any particular sensitivities in the local community.

## **7.0 Background Papers**

RIPA Policy and Procedure document