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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>14<sup>th</sup> September 2011</b>	<b>CATEGORY: DELEGATED</b>
<b>REPORT FROM:</b>	<b>Head of Corporate Services</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) – Inspection, Policy and Guidance Document and Quarterly Report</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 Council's Regulation of Investigatory Powers Act 2000 ('RIPA') Policy and Guidance document in light of recommendations following Inspection by Assistant Surveillance Commissioner HH Norman Jones QC of the Office of Surveillance Commissioners.
- 1.2 To note the internal report on the Council's use of the Regulation of Investigatory Powers Act 2000 in the last two quarters at 4.4.

## **2.0 Purpose of Report**

- 2.1 To receive a report regarding the Council's Inspection by the Office of Surveillance Commissioners and approve the Council's Regulation of Investigatory Powers Act 2000 Policy and Guidance document, as set out in **Appendix A**.
- 2.2 To note the report on the Council's use of the Regulation of Investigatory Powers Act 2000 since 1<sup>st</sup> October 2010 at 4.4.

## **3.0 Detail**

- 3.1 The Office of Surveillance Commissioners (OSC) was set up to monitor compliance with RIPA. The OSC has a duty to keep under review, the exercise and performance by the relevant persons, of the powers and duties under the Act. The Surveillance Commissioner will from time to time inspect the Council's records and procedures for this purpose.
- 3.2 An Inspection by the Assistant Surveillance Commissioner, HH Norman Jones QC, took place on 5<sup>th</sup> April 2011. The inspection was conducted by way of discussion and interview with the Chief Executive, the Director of Operations, and the RIPA Co-ordinating Officer.

- 3.3 The Inspector examined the Central Record of Authorisations. During discussion with Officers consideration was given to the response to the recommendations in the last OSC inspection report, the management structure for RIPA, Authorising Officers, training and the Council's RIPA Policy and procedures.
- 3.4 In relation to the Council's records and in particular the Central Record of Authorisations, the Inspector stated in his report, that this was a manual matrix document which was meticulously maintained and served as an excellent tool to assist with the oversight responsibilities. The Inspector recommended that consideration be given to maintaining the Central Record on a spreadsheet.
- 3.5 In relation to the Council's records, the applications/authorisations examined by the Inspector were described as demonstrating a good overall standard of application. The Inspector stated detail in both applications and authorisations were generally of a high standard with the Authorising Officer setting out comprehensively that which s/he was authorising.
- 3.6 The Inspector noted that both recommendations from the previous OSC Inspection Report had been discharged.
- 3.7 The Inspector noted that the Council was aware of the new provisions set out in the revised Codes of Practice and had given consideration to them. Amendments to the Council's Policy and Guidance document were noted. Consideration was also given to the structure of reporting to Councillors.
- 3.8 The Inspector noted the RIPA management team consisted of the Senior Responsible Officer (Chief Executive) and the RIPA Co-ordinating Officer. The Inspector confirmed the former had responsibility for RIPA as outlined in the revised Codes of Practice and in the Council's Policy and Guidance document and the latter had day to day responsibility.
- 3.9 The Inspector noted the dramatic reduction in numbers of Authorising Officers would lead to a uniform high quality of authorisation for all departments.
- 3.10 The Inspector noted regular training was provided by the RIPA Co-ordinating Officer. A copy of the training slides were provided to the Inspector, which he expressed were of an excellent standard. Training was given in February and December 2010 to a number of Officers as potential users of covert surveillance and further training was provided in January 2011 to two Authorising Officers.
- 3.11 The Inspector noted the Council's Policy and Guidance document and the guide for applicants and Authorising Officers on how to complete the various RIPA forms were both well designed. The Inspector suggested a few amendments to the Council's Policy and Guidance document. These amendments have been accepted, the Policy and Guidance document has been altered as necessary, and is attached at **Appendix A.**

#### **4.0 Conclusions**

- 4.1 The Inspector noted South Derbyshire District Council is an authority which has a modest resort to covert surveillance. The Inspector noted the quality of its applications/authorisations, reviews, renewals and cancellations was good and in some respects very high.
- 4.2 The Inspector stated, as a Council, a high standard of performance as a public authority was reflected in RIPA compliance. The Inspector found the Council had a

well structured Policy and Guidance document, a good degree of training, and a good level of performance. He felt any minor matters raised would be easily addressed within the present system of training.

4.3 The Inspector stated the Council was an authority that had achieved a good standard of performance at the time of the last inspection and continued to do so.

4.4 The usage of RIPA during the period October 2010 to May 2011 has been nil. No authorisations have been requested or granted.

## **5.0 Financial Implications**

5.1 None arising directly from this report.

## **6.0 Corporate Implications**

6.1 The Government have stated that they will “ban the use of powers in the RIPA by Councils, unless they are signed off by a Magistrate and required for stopping serious crime”. Once this has been introduced, the Council’s Policy and Guidance will need to be amended to reflect these changes.

## **7.0 Community Implications**

7.1 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.

7.2 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.

## **8.0 Background Papers**

None