
REPORT TO:	Overview and Scrutiny Committee	AGENDA ITEM: 7
DATE OF MEETING:	27th October 2010	CATEGORY: DELEGATED
REPORT FROM:	Chief Executive	OPEN
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SUBJECT:	Regulation of Investigatory Powers Act 2000 (RIPA) – Quarterly Report	REF:
WARD(S) AFFECTED:	All	TERMS OF REFERENCE:

1.0 Recommendations

- 1.1 To consider the internal report on the Council's use of the Regulation of Investigatory Powers Act 2000 in the last six months.
- 1.2 To approve the Council's Policy and Guidance document on the Regulation of Investigatory Powers Act 2000 in light of the amendments made in accordance with the Office of Surveillance Commissioners Procedures and Guidance document 2010.

2.0 Purpose of Report

- 2.1 To receive a report on the Council's use of the Regulation of Investigatory Powers Act 2000 ("RIPA") since 1st April 2010.
- 2.2 To approve the Council's Policy and Guidance document on RIPA in light of the amendments made in accordance with the Office of Surveillance Commissioners ("OSC") Procedures and Guidance document 2010.

3.0 Detail

- 3.1 The Home Office has published new RIPA Orders and Codes of Practice which came into force on 6th April 2010. These Orders ensure that covert surveillance techniques can continue to be used by public authorities but only where they are necessary and proportionate.
- 3.2 Full Council on 8th July 2010 approved the Council's RIPA Policy and Guidance document and authorised the Overview and Scrutiny Committee to review annually 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 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. A member of the Corporate Management Team considers 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.
- 3.6 During the period April 2009 to March 2010, seventeen directed surveillance authorisations were granted by the Council. Ten authorisations were granted for Revenues and Benefits for the purposes of benefit fraud investigations. Four authorisations were granted for the Safer South Derbyshire Partnership for the installation of CCTV to detect anti-social behaviour, criminal damage and racial harassment. Two authorisations were granted for Environmental Health's Safer Neighbourhood Wardens, one for the installation of CCTV to detect criminal damage and the second for the purposes of investigating an illegal clothing recycling operation. One authorisation was granted to Licensing for the purposes of investigating a private hire driver who was suspected of operating without a licence.
- 3.7 The usage of RIPA during the period April 2010 to September 2010 has been low. The four authorisations requested were granted in line with the Council's Policy and Guidance. One authorisation was granted for Housing Services for the installation of CCTV to detect anti-social behaviour and three authorisations were granted for Revenues and Benefits for the purposes of benefit fraud investigations.
- 3.8 On 5th October 2010, the OSC published the latest edition of the OSC Procedures and Guidance document, which supersedes all previous OSC publications. This document indicates the way in which the Commissioners are minded to construe particular statutory provisions. In the absence of case law, they are the most reliable indicator of likely judicial interpretation. The document is the basis on which inspections will be conducted and performance assessed by the OSC. As a result of this document, amendments have been made to the Council's RIPA Policy and Guidance document. A copy of our Policy is attached at **Appendix A**, highlighting the amendments.
- 3.9 Upon approval of our RIPA Policy and Guidance document, training will be provided to Officers and the Corporate Management Team (as Authorising Officers) to highlight the importance of the changes. In future, Applicants and Authorising Officers will need to take note of the interpretations when constructing and considering applications for the use of covert surveillance.

4.0 Financial Implications

4.1 None arising directly from this report.

5.0 Corporate Implications

5.1 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.

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

7.1 Regulation of Investigatory Powers Act 2000
Office of Surveillance Commissioners – Procedures and Guidance – September 2010