

Audit Committee – 28 September 2010

Regulation of Investigatory Powers Act (RIPA) 2000

Summary of report:

To provide Audit Committee with a summary of surveillance activities undertaken by the council under the Regulation of Investigatory Powers Act (RIPA) 2000.

Background papers:

Regulation of Investigatory Powers Act (RIPA) 2000 activity records
Office of the Surveillance Commissioner's Inspection Report 16 March 2010.

Recommendation:

1. Note this report detailing the surveillance activities undertaken by the council under the Regulation of Investigatory Powers Act (RIPA) 2000.

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Rory Borealis – Executive Director (Resources)

9 September 2010

Background

Where there is an interference by a local authority with the right to respect for private and family life guaranteed under Article 8 of the European Convention on Human Rights and where there is no other source of lawful authority, the consequence of not obtaining an authorisation under the 2000 Act may be that the action is unlawful by virtue of section 6 of the Human Rights Act 1998.

The Home Office has strongly recommended that local authorities seek an authorisation where the surveillance is likely to interfere with a person's Article 8 rights to privacy by obtaining private information about that person, whether or not that person is the subject of the investigation or operation. Obtaining an authorisation ensures that the action is carried out in accordance with law and subject to stringent safeguards against abuse.

Directed surveillance authorisations under Part II of the Regulation of Investigatory Powers Act (RIPA) 2000 may be granted in relation to covert surveillance undertaken in relation to a specific investigation or operation which is likely to result in the obtaining of private information about a person, and which is other than an immediate response to events or circumstances.

The council's procedure on directed surveillance dated 2009, sets out the extent of the council's use of the Regulation of Investigatory Powers Act (RIPA) 2000 and who can authorise such activity. This procedure is currently under review following the introduction of new codes of practice and a recent Office of the Surveillance Commissioner's Inspection.

New Codes of Practice

On 6 April 2010, the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 and revised Codes of Practice for covert surveillance/property interference and covert human intelligence sources came into force.

All the existing requirements were maintained but several new requirements were introduced:

- it was considered good practice for a senior responsible officer, who should be a member of the corporate leadership team, to be made responsible for the integrity and oversight of key aspects of the Regulation of Investigatory Powers Act (RIPA) 2000 regime in the Authority;
- Councillors should review the authority's use of the Regulation of Investigatory Powers Act (RIPA) 2000 and set the policy, at least once a year;
- Councillors should also consider internal reports on use of the Regulation of Investigatory Powers Act (RIPA) 2000 on at least a quarterly basis to ensure that it is being used consistently with the council's policy and that the policy remains fit for purpose. They should not, however, be involved in making decisions on specific authorisations.

Corporate Management Team was informed of the effect of the changes at its meeting of 3 June 2010 where among other actions, it agreed that for control and assurance purposes, the Audit Committee should receive quarterly reports from the appointed senior responsible officer, agreed to be Rory Borealis, Executive Director (Resources), to ensure that Regulation of Investigatory Powers Act (RIPA) 2000 is being used consistently with the council's policy and that the policy remains fit for purpose. This report represents the first of these reports.

Regulation of Investigatory Powers Act (RIPA) 2000 Activity 1 April 2007 – 31 August 2010

The table at **Appendix 1** details the general purpose or reason for which RIPA authority was granted and the number of authority's granted for each purpose or reason granted for the period 1 April 2007 to date (31 August 2010). It is not possible to give further details as this may breach confidentiality legislation, interfere with the proper investigation of potential offenders or disclose other operational information which could hinder past, current or future activities, investigatory techniques or investigations.

Office of the Surveillance Commissioner

The council was last subject to an Office of the Surveillance Commissioner's inspection on 6 March 2010. The inspection concluded that the council is operating an efficient system for using covert surveillance. An action plan was completed following the inspection which senior officers are currently working towards implementing.

Resource and legal considerations:

Material obtained through covert surveillance may be used as evidence in criminal proceedings. The proper authorisation of surveillance should ensure the admissibility of such evidence under the common law, S78 of the Police and Criminal Evidence Act 1984 and the Human Rights Act 1998.

Citizen impact:

Report scrutiny assists in demonstrating that the council and its officers are protected and provides an assurance to stakeholders about the security of the council's operations.

Performance and risk management issues:

Failure to implement these requirements may lead to adverse reports on future inspection and examination by the courts.

This report provides another layer of monitoring of the use of the Regulation of Investigatory Powers Act (RIPA) 2000 and therefore accountability of the officers is heightened.

Equality Implications:

None arising from this report.

Consultation:

This report is produced in accordance with the agreed work programme for the Audit Committee as agreed at its meeting on 14 June 2010 in the report 'The Roles and Responsibilities of the Audit Committee'.

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Appendix 1

Regulation of Investigatory Powers Act (RIPA) 2000 Activity 1 April 2007 – 31 August 2010

	1 April 2007 – 31 March 2008	1 April 2008 – 31 March 2009	1 April 2009 – 31 March 2010	1 April 2010 – 31 August 2010
Housing benefit and / or council tax benefit investigation	57	38	34	7
Anti social behaviour enforcement	152	57	36	11
Trading standards – age restricted test purchasing (knives, cigarettes, alcohol, fireworks), taxis playing for hire, counterfeit goods, fly tipping, litter enforcement	19	23	19	6
Miscellaneous – staff working privately while absent on sick leave; insurance claims from injured parties	4	1	7	1
Total	232	119	96	25