

**Audit Committee – 14 November 2011**

**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 for the 6 month period ending 30 September 2011.

**Background papers:**

Regulation of Investigatory Powers Act (RIPA) 2000 activity records.

**Recommendation:**

1. Note the surveillance activities undertaken by the council under the Regulation of Investigatory Powers Act (RIPA) 2000 for the 6 month period ending 30 September 2011.



**Jamie Morris – Executive Director (Neighbourhood Services)**

**28 October 2011**

**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 under review following the introduction of new codes of practice and a recent Office of the Surveillance Commissioner's Inspection.

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. This included the requirement for Councillors to consider regular internal reports on use of the Regulation of Investigatory Powers Act (RIPA) 2000 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.

### **Senior Responsible Officer**

The codes of practice also recommended that a senior responsible officer be appointed with responsibility for the integrity and oversight of key aspects of the Regulation of Investigatory Powers Act (RIPA) 2000 regime in the Authority. CMT on 25 November 2010 agreed that this responsibility be delegated to Jamie Morris, Executive Director (Neighbourhood Services).

### **Regulation of Investigatory Powers Act (RIPA) 2000 Activity for the year 6 month period ending 30 September 2011**

The table at **Appendix 1** includes the general purpose or reason for which RIPA authority was granted and the number of authorities granted for each purpose or reason for the period. 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. The table also gives a comparison of annual data from 1 April 2008 to 31 March 2011.

Year end data in relation to 1 April 2010 to 31 March 2011 was submitted on 19 April 2011 in the Council's annual return to the Office of Surveillance Commissioner.

### **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.

### **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 detailed in the report 'The Roles and Responsibilities of the Audit Committee', which was agreed by Audit Committee on 20 June 2011.

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**Appendix 1**

**Regulation of Investigatory Powers Act (RIPA) 2000**

**Activity 1 April 2011 – 30 September 2011 and annual comparators 1 April 2008 – 31 March 2011**

	1 April 2008 – 31 March 2009 (annual)	1 April 2009 – 31 March 2010 (annual)	1 April 2010 – 31 March 2011 (annual)	1 April 2011 – 30 September 2011 (6 months)
Housing benefit and / or council tax benefit investigation	38	34	16	7
Anti social behaviour enforcement	57	36	35	20
Trading standards – age restricted test purchasing (knives, cigarettes, alcohol, fireworks), taxis playing for hire, counterfeit goods, fly tipping, litter enforcement	23	19	15	11
Miscellaneous – staff working privately while absent on sick leave; insurance claims from injured parties	1	7	1	1
<b>Total</b>	<b>119</b>	<b>96</b>	<b>67</b>	<b>39</b>