

<b>Subject:</b>	<b>Annual Surveillance Report 2016</b>		
<b>Date of Meeting:</b>	<b>15<sup>th</sup> November 2016</b>		
<b>Report of:</b>	<b>Executive Director, Finance and Resources</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Jo Player</b>	<b>Tel: 29-2488</b>
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<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE****1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The purpose of this report is appraise Committee of the activities that have been undertaken utilising the powers under the Regulation of Investigatory Powers Act 2000 (RIPA) since the last report to Committee in January 2016.

**2. RECOMMENDATIONS:**

- 2.1 That the Committee approve the continued use of covert surveillance as an enforcement tool to prevent and detect crime and disorder investigated by its officers, providing the activity is in line with the Council's Policy and Guidance and the necessity and proportionality rules are stringently applied.
- 2.2 That the surveillance activity undertaken by the authority since the report to Committee in January 2016 as set out in paragraph 3.3 is noted.
- 2.3 That the continued use of the Policy and Guidance document as set out in Appendix 1 be approved.

**3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 The Regulation of Investigatory Powers Act 2000 (RIPA) is the law governing the use of covert surveillance techniques by Public authorities, including local authorities. RIPA was enacted as part of a suite of legislation flowing from the Human Rights Act 1998. RIPA requires that public authorities only use covert techniques to obtain information about someone when doing so is deemed to be necessary and where the surveillance is deemed to be a justifiable interference with the human rights of those affected by it.
- 3.2 RIPA regulates the interception of communications, directed and intrusive surveillance and the use of covert human intelligence sources (informants). Local authorities may not intercept communications or conduct intrusive surveillance and may only carry out directed surveillance, access certain communications data and use informants subject to stringent safeguards.

- 3.3 The Council has carried out no surveillance activity since the last report to Committee in January 2016.
- 3.4 The Protection of Freedoms Act was enacted in November 2012. Since then, approval must be sought from a Magistrate when local authorities wish to conduct surveillance activity, access communications data and/or use informants. This is in addition to the authorisation by an Authorising Officer who meets the criteria regarding their position within the authority.
- 3.5 In addition to seeking the approval of a Magistrate, all applications must meet the Serious Offence test. This stipulates that any directed surveillance is restricted to the investigation of offences that carry a custodial sentence of six months or more. The only offence where this restriction will not apply is in regard to the investigation of underage sales of tobacco or alcohol.
- 3.6 The Policy and Guidance document attached at Appendix 1 was updated to take into consideration recommendations made by the Surveillance Commissioner in June 2015 and the introduction of the Protection of Freedoms Act. It has recently been updated to reflect changes to personnel within the authority.

#### **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 4.1 The only alternative is to curtail the use of RIPA but this is not considered an appropriate step.

#### **5. COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 There has been no consultation in the compilation of this report. It is a requirement of the Code of Practice pursuant to section 71 of RIPA that elected members review the authority's use of RIPA and set the policy once a year and it is this function which this Committee are being asked to carry out.

#### **6. CONCLUSION**

- 6.1 It is essential that officers are able to use the RIPA powers where necessary and within the threshold set out in the Protection of Freedoms Act 2012, but only after excluding all other methods of enforcement. An authorisation will only be given by the relevant 'Authorising Officer' following vetting by the 'Gatekeeper': a process which is designed to ensure that powers are not abused. There is now the additional safeguard of judicial sign off.
- 6.2 The implementation of the Annual review has made the whole process transparent and demonstrates to the public that the correct procedures are followed.

#### **7. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

- 7.1 The costs of officer time associated with the recommendations in this report will be met from within existing resources.

*Finance Officer Consulted: Michael Bentley*

*Date: 04/10/16*

Legal Implications:

- 7.2 The legal framework governing the use of covert surveillance and accessing communications data is addressed in the body of the report. Adherence to the Council's policy and procedures – which are subject to annual review by this Committee - ensures that the Council's powers are exercised lawfully and proportionately.

*Lawyer Consulted: Victoria Simpson*

*Date: 5/10/16*

Equalities Implications:

- 7.3 The proper and consistent application of the RIPA powers should ensure that a person's basic human rights are not interfered with, without justification. Each application will be assessed by the gatekeeper for necessity and proportionality prior to the authorisation by a restricted number of authorising officers. The application will also be signed off by a Magistrate. This process should identify any inconsistencies or disproportionate targeting of minority groups and enable action to be taken to remedy any perceived inequality. However an equality impact assessment has been completed.

Sustainability Implications:

- 7.4 There are no sustainability implications

Any Other Significant Implications:

- 7.5 None

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Policy and Guidance Document version June 2016

### **Documents in Members' Rooms**

1. None.

