

<b>Subject:</b>	<b>Surveillance Policy</b>		
<b>Date of Meeting:</b>	<b>22 September 2011</b>		
<b>Report of:</b>	<b>Director of Finance</b>		
<b>Lead Cabinet Member:</b>	<b>Leader of the Council</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Jo Player</b>	<b>Tel:</b> 29-2488
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<b>Key Decision:</b>	<b>No</b>		
<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE****1. SUMMARY AND POLICY CONTEXT:**

- 1.1 The purpose of the report is to inform the Cabinet of the activities that have been undertaken utilising the powers under the Regulation of Investigatory Powers Act 2000 (RIPA) since the last report to Cabinet in June 2011 and to confirm that these activities were authorised in line with the necessity and proportionality rules.
- 1.2 The report also provides an update on the progress of the legislation needed to introduce the proposed changes to the use of surveillance activity by local authorities.

**2. RECOMMENDATIONS:**

- 2.1 That Cabinet approves the continued use of covert surveillance and the accessing of communications data as an enforcement tool to prevent and detect all crime and disorder investigated by its officers, providing the necessity and proportionality rules are stringently applied.
- 2.2 That Cabinet notes the surveillance activity undertaken by the authority since the last report to Cabinet in June 2011 compared to the same quarter in 2010 as set out in Appendix 1.

**3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 The Human Rights Act 1998, which incorporates the European Convention on Human Rights, requires the council to respect the right of citizens to a private and family life. This is a qualified right and, in certain circumstances, the council may interfere with an individual's right, providing that interference is in accordance with the law.

- 3.2 The Regulation of Investigatory Powers Act 2000 (RIPA) is the statutory mechanism for authorising covert surveillance, and accessing communications data. It seeks to ensure that any interference with an individual's right is both necessary and proportionate.
- 3.3 The relevant codes of practice require that elected members should consider internal reports on the use of the 2000 Act on a quarterly basis to ensure that it is being used consistently with the council's policy and that the policy remains fit for purpose. Attached at Appendix 1 is a breakdown of the last quarter's surveillance activity. This shows an increase in activity compared to the same period last year particularly in respect of flytipping. As a result the Senior Responsible Officer (Director of Finance) asked for a specific protocol to be produced for this area of activity. The equalities impact of this protocol will be assessed and the proposals will be considered by Cabinet when it conducts its annual review of Council's policy in November.
- 3.4 The changes to the council's covert surveillance policy and procedures, which were agreed at Cabinet in June 2011, have been implemented.
- 3.5 Following the Government's review of surveillance powers and their use by local authorities which were reported to Parliament in January this year, the recommendations are still being debated as part of the Freedoms Bill. The Bill is still progressing through Parliament and Royal Assent is likely later this year or early next year.

#### **4. COMMUNITY ENGAGEMENT AND CONSULTATION**

- 4.1 There has been no consultation in the compilation of this report

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

##### Financial Implications:

- 5.1 There are no direct financial implications associated with the recommendations of this report.

*Finance Officer Consulted: Karen Brookshaw Date: 22/08/11*

##### Legal Implications:

- 5.2 The legislative framework governing the use of covert surveillance and accessing communications data is referred to in paragraphs 3.1 and 3.2 above. The council's policy and procedures, including the latest amendments, are intended to ensure that any council operation involving covert surveillance is exercised lawfully and consistently.

*Lawyer Consulted: Oliver Dixon Date: 30/08/11*

##### Equalities Implications:

- 5.3 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'. This process should identify any inconsistencies or disproportionate targeting of minority groups and enable action to be taken to remedy any perceived inequality. Need to include something additional here in relation to flytipping.

#### Sustainability Implications:

- 5.4 There has been an increase in directed surveillance requested as a result of illegal flytipping.

#### Crime & Disorder Implications:

- 5.5 If used appropriately, the activities described in the report should enhance our capacity to tackle crime and disorder.

#### Risk and Opportunity Management Implications:

- 5.6 Any failure to comply with the provisions of the legislation could render any evidence obtained as inadmissible, resulting in a failed prosecution, and have a detrimental impact on the council's reputation.

#### Public Health Implications:

- 5.7 There are potential public health risks if illegal flytipping is not properly enforced,

#### Corporate / Citywide Implications:

- 5.8 Proper application of the powers will help to achieve fair enforcement of the law and help to protect the environment and public from rogue trading and illegal activity.

### **6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 A review of 'surveillance activities' could be the subject of the normal scrutiny process.

### **7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 It is essential that officers are able to use the RIPA powers where necessary within the new threshold, but only after excluding all other methods of enforcement. An authorisation will only be given by a Director or above, and scrutinised by a 'gatekeeper', therefore, it is unlikely that these powers will be abused.
- 7.2 The implementation of the Annual review and quarterly oversight has made the whole process transparent and demonstrates to the public that the correct procedures are followed.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Summary of surveillance activity undertaken by the authority since the last report to Cabinet in June 2011 and a comparison with activity undertaken in the same quarter in 2010.

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

None

### **Background Documents**

None