

Agenda Item 5

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Date	05 July 2016

Subject	Authorisations made under the Regulation of Investigatory Powers Act 2000 (RIPA)
RECOMMENDATIONS	
<p>That the Committee notes the use of the powers, and any authorisations made for directed covert surveillance, during the last year under the Regulation of Investigatory Powers Act 2000, together with the outcome of an inspection of the Council's policy and procedures by the Office of the Surveillance Commissioner.</p>	

SUMMARY	
2.1	<p>This report provides an update on the use of the powers and the number of authorisations granted under the provisions of the Regulation of Investigatory Powers Act 2000 (RIPA). The purpose of the report is to inform Members of the use of the powers under RIPA and it provides an update on the Council's policy and procedures following an inspection by an Assistant Surveillance Commissioner.</p>

BACKGROUND

- 3.1 From time to time the Council needs to carry out surveillance or investigatory work in order to fulfill its statutory duties and powers. The Regulation of Investigatory Powers Act 2000 regulates the way in which public authorities can carry out covert surveillance on a statutory basis without breaching the Human Rights Act 1998. If an officer wishes to carry out covert surveillance they can do so in two ways – either by directed surveillance or where they establish or maintain a personal or other relationship with a person for the purposes of making enquiries about another person or persons (i.e. an informant). Such actions must be authorised by a designated officer and satisfy certain criteria.
- 3.2 Two changes were introduced by the Protection of Freedoms Act 2012, which came into effect from 1 November 2012. First, in addition to obtaining authorisation from a designated officer, a further authorisation must be obtained from a Justice of the Peace. Secondly, authorisations can only be sought for criminal offences punishable by a maximum term of at least 6 month's

- imprisonment (or for an offence which is related to underage sales of alcohol or tobacco).
- 3.3 Only one authorisation has been sought, for directed surveillance, under RIPA since July 2012. This authorisation related to the investigation of a benefit fraud case and an allegation that a single person was living with a partner. The authorisation was granted just prior to the changes that were introduced by the Protection of Freedoms Act 2012. The investigation resulted in a successful prosecution. No authorisations have had to be sought since the changes were introduced.
- 3.4 Although the powers have most often been used in the past in connection with the investigation of benefit fraud cases, the Council has numerous statutory duties and powers to investigate private individuals and organisations within its jurisdiction for the benefit and protection of the greater public. Some other investigations which may require surveillance and could be covered by RIPA include:
- environmental health
 - licensing
 - environment (i.e. fly tipping).
 - planning
 - audit investigations
- (This list is not exhaustive)
- 3.5 Surveillance will only be undertaken as a last resort. Each application has to be fully evaluated and several factors have to be considered including proportionality to the suspected offence that is being committed, the amount of other supporting evidence that has been gathered to substantiate an allegation, whether any other alternative means of investigation are available to the investigator, whether any third parties are likely to be included in the surveillance and also the length of time and cost, by way of resources each surveillance operation is going to take.
- 3.6 The Legal Services Manager acts as the Senior Responsible Officer for overseeing RIPA and, together with the following officers, is designated to authorise surveillance: the Corporate Head of Service with responsibility for Finance and Assets, the Benefits Manager and the Environmental Services Manager.
- 4.0 **Training**
In addition to periodical meetings with relevant officers to discuss changes to the legislation and the Council's policy, and providing updates on the Intranet and to BMG members, an external trainer provided in-house training on 27 April 2015 for as many officers who could attend and who might be involved in using the RIPA powers.
- 5.0 **Periodical Inspections**
An inspection was carried out by an Assistant Surveillance Commissioner of the Council's policy and procedures, on behalf of the Office of Surveillance

Commissioners, on 8 March 2016. The previous inspection had taken place on 15 May 2012. The Assistant Surveillance Commissioner found that the recommendations of the previous Inspector had been fully discharged. The Assistant Surveillance Commissioner made the following comments by way of conclusions following his inspection:

- The Council's RIPA structure, under the experienced leadership of the Legal Services Manager (as the Senior Responsible Officer), is in good health and ready for use when the need arises. There is a need to continue to maintain RIPA awareness throughout the Council (as in all local authorities) which now make little or no use of their RIPA powers. This is clearly recognised by the Council as is shown by the training provided;
- It is reassuring that the Chief Executive is well versed in RIPA issues in her senior management post at Surrey County Council;
- Impressed that all four designated Authoring Officers took part in a lively and well informed discussion with him;
- So long as the Council maintains the compliant RIPA structure and training, future inspections may take the form of an examination of the written materials, without the need to visit in person.
- Recommended that the Council's Policy (which he said was comprehensive and clear) be further revised in accordance with suggestions made by him in his report.

Legal Implications – The Council's RIPA authorisations are made in accordance with statutory requirements.

Financial Implications - This report is for information purposes only.

CORPORATE IMPLICATIONS

Monitoring Officer commentary – The Monitoring Officer confirms that all relevant legal implications have been taken into consideration.

S151 Officer commentary – The S.151 Officer confirms that there are no direct financial implications arising from this report.

Risk Implications - This report is for information purposes only so the Council's risk assessment approach does not need to be applied.

Sustainability Issues – There are no implications.

Equalities Implications – None arising from this report.

BACKGROUND PAPERS

Register of Authorisations – exempt by virtue of Schedule 12A, paragraphs 1, 2 and 7, of the Local Government Act 1972.