

Southend-on-Sea Borough Council

Agenda
Item No.

Report of Corporate Director for Corporate Services

to
Cabinet
on
1st July 2014

Report prepared by:
John Williams, Head of Legal & Democratic Services

Annual Report re the Regulation of Investigatory Powers Act 2000 (RIPA)

**Policy & Resources Scrutiny Committee –
Executive Councillor: Councillor Woodley**

A Part 1 Item

1. Purpose of Report

To report on the Council's use of the surveillance powers available to it under the Regulation of Investigatory Powers Act 2000 ("RIPA") in respect of the period 1st April 2013 to the 31st March 2014 and to endorse the Council's "Policy and Procedures for undertaking Directed Covert Surveillance and the use of Covert Human Intelligence Sources".

2. Recommendations

- 2.1 To note that the Council has used the surveillance powers available to it under RIPA once between 1st April 2013 and the 31st March 2014, but it has not used any covert human intelligence sources during this period.
- 2.2 To endorse the Council's amended "Policy and Procedures for undertaking Directed Covert Surveillance and the use of Covert Human Intelligence Sources" as attached at **Appendix 1**.
- 2.3 To note the conclusion of the Office of Surveillance Commissioners ('the OSC') inspection that: *'This inspection has been a conspicuously successful one from the Council's point of view. A thoroughly efficient and effective RIPA regime is in place and the Council is as well placed as any local authority to mount any necessary RIPA activity'*.

3. Background to RIPA

- 3.1 If a Council wants to carry out directed covert surveillance then:
 - (a) It must be in connection with the investigation of a criminal offence which attracts a maximum custodial sentence of 6 months or more, or involves the underage sale of alcohol or tobacco.

- (b) It must not be intrusive surveillance (only the Police can carry out intrusive surveillance inside a house or vehicle);
- (c) Such surveillance must be properly authorised internally. In particular authorising officers must be formally designated and trained – and only authorised and trained officers should carry out surveillance;
- (d) A Justice of the Peace must make an Order approving the grant of authorisation referred to in (c) above; and
- (e) There must be compliance with the Codes of Practice issued by the Home Office – and the Council’s own Policy & Procedures (see 3.3 below).

3.2 Similar requirements also apply if the Council wants to use a covert human intelligent source (CHIS).

3.3 In order to ensure that the Council acts legally and properly and complies with RIPA, it has put in place “Policy and Procedures for undertaking Directed Covert Surveillance and the use of Covert Human Intelligence Sources” (**Appendix 1**).

This document (which is available on the internet and intranet) was originally produced in 2007 and then updated to reflect the provisions of the Protection of Freedoms Act 2012 and the RIPA (Directed Surveillance & Covert Human Intelligence Sources) (Amendment) Order 2012. The document has been further amended (see tracked changes) to reflect the minor amendments recommended in the OSC’s inspection report referred to in 3.6 below.

3.4 In the year 1st April 2013 – 31st March 2014 one covert surveillance operation was authorised under RIPA. This authorisation related to a test purchasing exercise to ascertain whether under 18’s were being sold alcohol, cigarettes or fireworks illegally from premises in Southend-on-Sea. This surveillance enabled further action in one instance of illegal selling of alcohol.

No use has ever been made of a CHIS, but the Council is obliged to have appropriate Policy & Procedures in place.

3.5 In 2010 pursuant to Section 71 of RIPA, the Home Office issued a revised Code of Practice ‘Covert Surveillance and Property Interference’. The Code provides that:

“elected members of a local authority should review the authority’s use of the 2000 Act [RIPA] and set the policy at least once a year”.

This report reflects this Code by providing details of surveillance undertaken and asking the Council to endorse the amended “Policy and Procedures for undertaking Directed Covert Surveillance and the use of Covert Human Intelligence Sources” at **Appendix 1**.

3.6 An inspection of the Council's RIPA policies, procedures, operations and administration was undertaken by the OSC on the 27th August 2013. The Assistant Surveillance Commissioner who carried out the inspection reported as follows:-

- Council Policy and Procedures document – *“largely very satisfactory subject to a couple of minor amendments”*
- Training – *“The Council has a robust training regime”*
- Central Record Authorisation Forms – *“I was able to examine the immaculately kept central record of authorisations”*
- RIPA Equipment Inventory – *“is entirely fit for purpose”*
- Report Conclusions:
 - *“This inspection has been a conspicuously successful one from the Council’s point of view. A thoroughly efficient and effective RIPA regime is in place and the Council is as well placed as any local authority to mount any necessary RIPA activity.*
 - *I am grateful for the friendly and co-operative welcome I was afforded by all I met and which contributed greatly to the success of the inspection.”*

4. Other Options

None

5. Reasons for Recommendations

To comply with the Home Office Codes of Practice re RIPA.

6. Corporate Implications

6.1 Contribution to Council’s Vision & Corporate Priorities

Excellent – Deliver targeted services that meet the identified needs of our community.

6.2 Financial Implications

None

6.3 Legal Implications

This report has been prepared to comply with Home Office Guidance on RIPA.

6.4 People Implications

None

6.5 Property Implications

None

6.6 Consultation

Internal only

6.7 Equalities and Diversity Implications

None

6.8 Risk Assessment

The Council's RIPA Policy and Procedures ensure any risks associated with surveillance or use of a CHIS are minimised.

6.9 Value for Money

N/A

6.10 Community Safety Implications

N/A

6.11 Environmental Impact

N/A

7. Background Papers

None

8. Appendices

Appendix 1 – Policy and Procedures for undertaking Directed Covert Surveillance and the use of Covert Human Intelligence Sources