

Southend-on-Sea Borough Council

Agenda
Item No.

16

Report of Corporate Director for Corporate Services

to
Cabinet

on

28th June 2016

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 Moring**

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 2015 to the 31st March 2016 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 not used the surveillance powers available to it under RIPA between 1st April 2015 and the 31st March 2016 and neither has it used any covert human intelligence sources during this period.

2.2 To endorse the Council's "Policy and Procedures for undertaking Directed Covert Surveillance and the use of Covert Human Intelligence Sources" attached at Appendix 1 with the amendments highlighted.

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 a “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 has been subsequently updated to reflect legislation including the provisions of the Protection of Freedoms Act 2012, the RIPA (Directed Surveillance & Covert Human Intelligence Sources) (Amendment) Order 2012 and the minor recommendations in the last inspection report undertaken by the Office of Surveillance Commissioners in 2013.

Further minor amendments are now being proposed:

- to incorporate additional information on surveillance outside RIPA (Section 6);
- re the Internet and use of Social Media (section 8);
- to reflect the responsibilities of the Principal Legal Executive; and
- to improve clarity.

These amendments are highlighted in **Appendix 1** and need to be endorsed.

3.4 In the previous period between 1st April 2014 and the 31st March 2015 one covert surveillance operation was authorised under RIPA which related to an investigation to establish whether a person claiming Housing Benefit and Council Tax Benefit in respect of a property in Southend actually resided at the property.

In the period covered by this report between 1st April 2015 and the 31st March 2016 the Council has not used the surveillance powers available to it under RIPA.

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 it's Policy.

This report reflects this Code by providing details of surveillance undertaken and asking the Council to endorse the Council's "Policy and Procedures for undertaking Directed Covert Surveillance and the use of Covert Human Intelligence Sources" with the amendments highlighted (**Appendix 1**).

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 existing 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”