

# Southend-on-Sea Borough Council

Agenda  
Item No.

11

Report of Chief Executive & Town Clerk

to  
Cabinet

on

8<sup>th</sup> November 2016

Report prepared by:

John Williams, Director of Legal & Democratic Services

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Office of Surveillance Commissioners – Inspection Report

Policy & Resources Scrutiny Committee –  
Executive Councillor: Councillor Moring

A Part 1 public agenda item

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## 1. Purpose of Report

To report on the result of a recent inspection carried out by the Office of Surveillance Commissioners (OSC) of the arrangements made by the Council to ensure compliance with the statutory provisions which govern the use of covert surveillance, particularly the Regulation of Investigatory Powers Act 2000 (“RIPA”)

## 2. Recommendations

- 2.1 To note the report of the Assistant Surveillance Commissioner dated 8<sup>th</sup> August 2016 attached at Appendix 1.
- 2.2 To note that the recommendations in the report will be implemented.
- 2.3 To approve the amendments to the Council’s *“Policy and Procedures for undertaking Directed Covert Surveillance and the use of Covert Human Intelligence Sources”* as recommend by the Assistant Surveillance Commissioner and highlighted in Appendix 2.

## 3. Background

- 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 OSC and 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”*
- 3.4 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.

An annual report was submitted to Cabinet on 28 June 2016 reporting on RIPA activity (which was very limited) and recommending minor revisions to the *“Policy and Procedures for undertaking Directed Covert Surveillance and the use of Covert Human Intelligence Sources”* to reflect legislative change and good practice. These revisions were agreed and endorsed at Council on 21 July 2016.

- 3.5 In view of the sensitivity and importance of the subject, the OSC arranges for regular inspections of public bodies (including local authorities) which carry out, or may carry out, covert surveillance.

On 8<sup>th</sup> August 2016 His Honour Brian Barker CBE, QC, an Assistant Surveillance Commissioner carried out an inspection of the arrangements made by Southend-on-Sea Borough Council to ensure compliance with the statutory provisions which govern the use of such surveillance.

The Inspection Report is attached at **Appendix 1** and this has found the Council’s systems to be in generally good order.

3.6 Three recommendations have been made and these will all be implemented:

(a) The first recommendation is to make a few minor additions to the Council's *"Policy and Procedures for undertaking Directed Covert Surveillance and the use of Covert Human Intelligence Sources"*.

Attached at **Appendix 2** is this document with the proposed amendments highlighted.

(b) The second recommendation is that the Chief Executive should receive some training so he can be an Authorising Officer and this is in progress.

(c) The third recommendation is about raising the level of awareness among Members by more frequent reports, including a focus on the use of social media and the care which is needed. This will be addressed.

#### **4. Other Options**

None

#### **5. Reasons for Recommendations**

To respond to the recommendations of the OSC inspection.

#### **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 addresses the recommendations of the OSC to ensure compliance with the law.

##### 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

Having an up to date RIPA Policy and Procedures ensures 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** - OSC Inspection report dated 8 August 2016

**Appendix 2** – “*Policy and Procedures for undertaking Directed Covert Surveillance and the use of Covert Human Intelligence Sources*” with proposed amendments highlighted