



Derby City Council

**AUDIT AND ACCOUNTS COMMITTEE**  
**8 December 2014**

Report of the Director of Legal & Democratic  
Services

# ITEM 10

## **Regulation of Investigatory Powers Act 2000 – Policy Review**

### **SUMMARY**

- 1.1 On an annual basis the Council is required to undertake a “fitness for purpose” test of its Regulation of Investigatory Powers Act 2000 Policy known as the “Covert Surveillance” Policy. The Council has determined that this test is undertaken by the Audit and Accounts Committee.
- 1.2 The Council’s Policy along with associated application forms is published on iDerby. A copy of this Policy appears at Appendix 2.
- 1.3 The Inspection undertaken by the Office of Surveillance Commissioners in 2013, recommended amendments to the Policy and these have been incorporated as part of the Inspection Action plan which has been previously reported to the Audit and Accounts Committee. A copy of this Inspection Action Plan appears at Appendix 3.

### **RECOMMENDATION**

- 2.1 To note that the Council’s Regulation of Investigatory Powers Act 2000 Policy has been reviewed and determined as being fit for purpose by Members of the Audit and Accounts Committee.
- 2.2 To note the progress being made against the agreed Action Plan as detailed at Appendix 3

### **REASONS FOR RECOMMENDATION**

- 3.1 The Council is required to undertake a review of its “Covert Surveillance” Policy to ensure that it is fit for purpose on annual basis.
- 3.2 The Council’s activity in respect of the use of the Regulation of Investigatory Powers Act 2000 (as amended) is the subject of external inspection by the Office of Surveillance Commissioners.

In response to the Inspection by His Honour Judge Jones QC in April 2013, an Action Plan was approved by the Audit and Accounts Committee to ensure that the recommendations were addressed.

## **SUPPORTING INFORMATION**

### Regulation of Investigatory Powers Act 2000 Policy

- 4.1 The Policy has required amendment to comply with the recommendations of the Office of Surveillance Commissioners Inspection in 2014. This requirement was reflected in the aforementioned Action Plan.

Amendments have been made as follows:

- Indicating that CHIS authorisations may be granted by an Authorising Officer;
- Amend definition of private life;
- Correcting reference to private life and CHIS;
- Correction to list of offences;
- Discussion/description of proportionality and necessity;
- Amendments required due to changes in legislation;
- Stipulating that only the CEO or Deputy can authorise CHIS;
- Correcting the procedure for storage of original applications;
- Outlining the requirements for Controller and Handler under CHIS;
- Removing reference to threshold test provisions for CHIS;

Amending the roles and details of the SRO and Co-ordinating Officer

### Usage of Covert Surveillance

- 4.2 The Council is obliged to maintain a central record of all Applications made using the RIPA procedures regardless as to whether they have been authorised or refused by the Authorising Officer and a Magistrate. This central record is maintained by Legal Services.

### Update on the Action Plan

- 4.3 The Audit and Accounts Committee approved the Council's Action Plan in respect of RIPA activity on 26<sup>th</sup> June 2013. This approved Action Plan has also been shared with the Office of Surveillance Commissioners who have welcomed the Council's response to the Inspection.

The Action Plan has now been completed so as to address all recommendations made by the Office of Surveillance Commissioners.

## OTHER OPTIONS CONSIDERED

- 5.1 No other options have been considered as the Council has a statutory obligation to ensure Elected Members are advised and remain up to date in respect of the Council's covert surveillance activity. In addition, the Council is required to respond actively to address the recommendations arising from the Inspection by the Office of Surveillance Commissioners.

This report has been approved by the following officers:

<b>Legal officer</b> <b>Financial officer</b> <b>Human Resources officer</b> <b>Estates/Property officer</b> <b>Service Director(s)</b> <b>Other(s)</b>	Janie Berry, Director of Legal & Democratic Services     Richard Boneham, Head of Governance and Assurance
<b>For more information contact:</b> <b>Background papers:</b> <b>List of appendices:</b>	Janie Berry 01332 643616 <a href="mailto:janie.berry@derby.gov.uk">janie.berry@derby.gov.uk</a> None Appendix 1 – Implications Appendix 2 – regulation of Investigatory Powers Act 2000 Policy Appendix 3 – Inspection Action Plan

<b>IMPLICATIONS</b>
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**Financial and Value for Money**

- 1.1 The Training is being provided by external providers at a cost of £895 plus VAT for each of the two days.

**Legal**

- 2.1 Covert surveillance activity is prescribed by the Regulation of Investigatory Powers Act 2000 as amended by the Protection of Freedoms Act 2012. The Home Office has issued codes of Practice and Guidance to Local Authorities to support the development and implementation of a Council Policy and Procedure. The Council has a statutory obligation to ensure Elected Members are advised and remain up to date in respect of the Council's covert surveillance activity.

**Personnel**

- 3.1 Key staff including those identified as Authorising Officers and Investigating Officers are required to attend both days of training.

**IT Implications**

- 4.1 None.

**Equalities Impact**

- 5.1 None

**Health and Safety**

- 6.1 Training is to be provided to ensure staff are fully aware of health and safety risks when considering using covert surveillance.

**Environmental Sustainability**

- 7.1 none

**Property and Asset Management**

- 8.1 The Council is required to maintain a catalogue of equipment authorised to be used in covert surveillance activity.

## **Risk Management**

- 9.1 Risks associated with undertaking covert surveillance will be addressed as part of the training. Corporately it is essential that the Council strictly adheres to the prescribed Policies, Procedures and legislation.

## **Corporate objectives and priorities for change**

- 10.1 The Council is required to ensure that recommendations arising from the external Inspection are implemented so as to ensure legality and transparency in its decision making.