

The Council's use of Covert Surveillance and Update Against the Inspection Action Plan

SUMMARY

- 1.1 On 26 June 2013, the Committee approved the Action Plan developed following the Inspection of covert surveillance usage by the Office of Surveillance Commissioners. As part of this Action Plan, a commitment was given to ensure that elected members received a quarterly update on the Council's usage of covert surveillance and an update generally as to progress against the agreed Action Plan
- 1.2 It has been agreed that the quarterly update reporting shall be to Members of the Audit & Accounts Committee.
- 1.3 In respect of usage, the time period covered will be from 1 August 2013 to 31 October 2013.

RECOMMENDATIONS

- 2.1 To note that there have been no applications made to use covert surveillance between 1 August 2013 and 31 October 2013.
- 2.2 To note that PHF Training delivered training to 15 staff in respect of covert surveillance on 14 October 2013 and covert human intelligence surveillance training on 15 October 2013
- 2.3 To note the progress being made against the agreed Action Plan as detailed at appendix 2.

REASONS FOR RECOMMENDATIONS

- 3.1 The Council has a statutory obligation to provide a quarterly update to elected members in respect of its use of covert surveillance. On an annual basis, elected members are required to review the Council's Covert Surveillance Policy and procedures to ensure they are fit for purpose.
- 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.

- 3.3 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

Usage of Covert Surveillance

- 4.1 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.

Staff training by PHF Training Ltd

- 4.2 15 members of Staff have now received mandatory training over a two day period. On 14 October 2013, the training covered all aspects of covert surveillance whilst on 15 October 2013, staff received training in respect of covert human intelligence surveillance (CHIS).
- 4.3 The Senior Responsible Officer, Surveillance Monitoring officer and the three Authorising Officers attended both days along with the Council's Investigating Officers from Environment and Regulatory Services, Customer Services and the Community Safety Partnership.
- 4.4 The Head of Governance and Assurance and the Information Governance Manager were also in attendance. Following on from the training steps will now be taken to ensure that a formal internal audit of the Council's RIPA procedures can be undertaken by the Head of Governance and Assurance.
- 4.5 The Senior Responsible Officer will ensure that the Chief Executive, Deputy Chief Executive and Strategic Directors now also receive training in respect of covert surveillance and CHIS.

Update on the Action Plan

- 4.6 The Audit and Accounts Committee approved the Council's Action Plan in respect of RIPA activity on 26 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.

4.7 The Action Plan has been updated to reflect:

- Mandatory training of all relevant staff has now taken place;
- The number of Authorising Officers has been reduced to 3;
- Amendments to the Council's Constitution will be taken to the meeting of Council in full assembly on 18 December 2013;
- Internal procedures are now being established to strengthen the RIPA procedure such as establishments of an equipment library, development of a bespoke Sharepoint area for investigating officers and authorising officers to access;
- Arrangements are being made to formally introduce an Internal Audit of RIPA procedures; and
- Regular reporting to the Audit and Accounts Committee is now taking place.

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.

5.2 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:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Janie Berry, Director of Legal & Democratic Services Richard Boneham, Head of Governance & Assurance
For more information contact: Background papers: List of appendices:	Janie Berry 01332 643616 janie.berry@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Action Plan

IMPLICATIONS

Financial and Value for Money

- 1.1 None directly arising in this report.

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 attended both days of training.

Equalities Impact

- 4.1 None

Health and Safety

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

Environmental Sustainability

- 6.1 None

Property and Asset Management

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

Risk Management

- 8.1 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

- 9.1 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.

COVERT SURVEILLANCE ACTION PLAN

JUNE 2013

Action	Lead Officer	Breakdown of activities	Action	Timeframe
<p>Ensure an improved quality of application and authorisation by training all who may authorise and likely applicants. Such training should form part of a training programme commencing with training provided by an experienced external trainer.</p>	<p>Senior Responsible Officer</p>	<p>Improve the quality of written applications by Investigating Officer to address all key areas in detail</p> <p>Improve quality and analysis of Authorising Officers written approvals</p> <p>Establish a robust gatekeeping and quality assurance exercise for all applications</p> <p>Commission an approved Trainer to deliver mandatory training to Investigating Officers, Authorising Officers and the Senior Responsible Officer in respect of directed surveillance activity</p>	<p>Commission approved external trainers PHF Training Ltd</p> <p>Develop a robust training strategy for the short and medium term</p>	<p>Training to be delivered by October 2013</p> <p>ACHIEVED: TRAINING DELIVERED ON 14TH & 15TH OCTOBER 2013 BY PHF TRAINING</p>

Appendix 2

<p>Establish a more robust and pro-active process of oversight.</p>	<p>RIPA Co-ordinating Officer</p>	<p>Establish a robust gatekeeping and quality assurance exercise for all applications</p> <p>Introduce an Internal Audit of RIPA procedures and report findings to Audit and Accounts Committee</p>	<p>Head of Governance and Assurance to undertake formal audit of RIPA procedures</p>	<p>Ongoing</p> <p>Establish internal audit procedure by April 2014</p>
<p>Ensure that the Council is equipped to manage CHIS by the training of Controllers and Handlers.</p>	<p>Senior Responsible Officer</p>	<p>Deliver mandatory training to the Chief Executive and his Deputy, Senior Responsible Officer, Controllers and handlers</p>	<p>Commission approved external trainers PHF Training Ltd</p> <p>Identify Controllers and handlers across the Council</p>	<p>Training to be delivered by December 2013</p> <p>ACHIEVED: TRAINING DELIVERED ON 15TH OCTOBER 2013 BY PHF TRAINING</p>
<p>Reduce the number of Authorising Officers.</p>	<p>Monitoring Officer</p> <p>Head of Governance and Assurance</p>	<p>Reduce the number of Authorising Officers within the Council to a maximum of 3 (Director of Customer Management, Director of Younger Adults & Housing, Director Environment & Regulatory Services)</p>	<p>Identify Authorising Officers</p> <p>Amendments required to the Council's Constitution</p>	<p>June 2013</p> <p>ACTION: Report amending the Constitution in respect of RIPA will be taken to Full Council on 18th December 2013</p>

<p>Amend the <i>Guidance to staff on surveillance under RIPA</i>.</p>	<p>RIPA Co-ordinating Officer</p>	<ul style="list-style-type: none"> • 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 	<p>Utilise iDerby to promote the existence of the RIPA Policy and Procedures</p> <p>Review and evaluate awareness during the gatekeeping exercise</p>	<p>September 2013</p> <p>ACTION: OCTOBER 2013 Following the training a Sharepoint area has been developed for RIPA documentation with access restricted to those who attended the training on 14th and 15th October 2013</p>
<p>Reporting to Elected</p>	<p>Monitoring</p>	<p>Audit & Accounts Committee to</p>	<p>Reports to be</p>	<p>Ongoing from Audit &</p>

Members	Officer/Senior Responsible Officer	<p>receive</p> <ul style="list-style-type: none"> • an annual report to consider the fitness for purpose of the Council's Policy • a quarterly report to consider the Council's usage of covert surveillance 	<p>produced annually in respect of the Policy and quarterly in respect of usage to Audit & Accounts Committee</p> <p>Head of Governance & Assurance on behalf of Audit & Accounts Committee to review progress against this plan</p>	<p>Accounts Committee meeting on 27th June 2013</p> <p>Head of Governance & Assurance to report against this Action Plan in the Council's Governance Updates and Annual Governance Statement</p>
---------	------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Note:

Plan updated on 24 October 2013 by Janie Berry