



AGENDA ITEM: 7

**AUDIT AND GOVERNANCE
COMMITTEE: 29 JANUARY 2013**

Report of: Borough Solicitor

Relevant Managing Director: Managing Director (People and Places)

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**SUBJECT: REGULATION OF INVESTIGATORY POWERS ACT – QUARTERLY
MONITORING OF USE OF POWERS**

Borough Wide Interest

1.0 PURPOSE OF THE REPORT

1.1 To monitor on a quarterly basis the use of the Regulation of Investigatory Powers Act 2000 (RIPA) to ensure it is being used consistently with the Council's Policy.

2.0 RECOMMENDATIONS

2.1 That the Council's RIPA activity be noted.

3.0 BACKGROUND

3.1 The Council employ a number of investigative techniques including surveillance, which assist its regulatory functions. Relevant areas of activity can potentially include investigation by Internal Audit, Benefits Fraud Team, Environmental Health, Housing, Licensing, CCTV Services and the MAPs Team. Some activities must be undertaken in accordance with the Regulation of Investigatory Powers Act 2000 ("RIPA"). RIPA, its subordinate legislation and Codes of Practice prescribe the type of activities permitted and the procedures required to monitor RIPA activity within the Council. As reported previously, this is now supplemented by monitoring through this Committee.

3.2 In accordance with the current Scheme of Delegation the Joint Managing Directors and Heads of Service consider whether or not to grant authorisations for surveillance activity. In practice under the Policy this is restricted to the Joint Managing Directors, the Assistant Director (Community Services) and the Assistant Director (Housing and Regeneration). In the case of the authorisation

of communications data (i.e. relating to material, such as subscriber and billing records obtained from telecommunications service providers, but not the content of the communication) the authorisation must be from the Joint Managing Directors and via the externally approved specially trained officer (SPOC).

- 3.3 The Council's approved RIPA Guide is made available on the Council's Intranet and is a working document to assist investigating and co-ordinating officers within the Council. The Guide stresses that grantors must believe the authorised activity is (1) necessary for preventing and detecting crime (the criminal offence which is sought to be prevented or detected is to be punishable, whether on summary conviction or on indictment, by a maximum term of at least six months' imprisonment, or would constitute an offence involving the sale of tobacco and alcohol to underage children) and (2) is proportionate to what is sought to be achieved in carrying out the surveillance activity. If it fails either test, authorisations should not be granted. The RIPA Guide has been updated to reflect recent legislative changes reported to the last meeting.
- 3.4 The Code requires that Councillors should consider internal reports on the use of RIPA on at least a quarterly basis to ensure that it is being used consistently with the Council's Policy and that the Policy remains fit for purpose. It continues that Councillors should not, however, be involved in making decisions on specific authorisations. It is stressed that the involvement of elected members is not to extend to operational decision making or stipulate in detail how the Council discharges the procedure. The Government's position is that there should be no possibility of political interference in law enforcement operations.

4.0 MONITORING OF RIPA ACTIVITY

- 4.1 In the last quarter no covert surveillance has been authorised.
- 4.2 The Senior Responsible Officer proactively seeks to ensure that the use of covert surveillance in this authority is well regulated. Applications for authorisation to use covert surveillance must be rejected when the Authorising Officer is not satisfied that the surveillance is necessary or proportionate and legal advice should be sought by Authorising Officers in appropriate cases.
- 4.3 Amongst other matters, a RIPA guidance note is circulated within the Council at regular intervals.

5.0 THE RIPA POLICY

- 5.1 The RIPA Guide is annually approved by Cabinet; it is important to ensure the use of RIPA is consistent with the Council's policy.

6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 6.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder. The report has no significant links with the Sustainable Community Strategy.

7.0 FINANCE AND RESOURCE IMPLICATIONS

7.1 There are no additional significant financial and resource implications arising from this report.

8.0 RISK ASSESSMENT

8.1 The Council could be in breach of the relevant legislation if it does not follow the procedures set out in the RIPA Orders and Codes. This could result in the inadmissibility of evidence and the possibility of breaches of the Human Rights Act 1990.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this report.

Equality Impact Assessment

This will be considered in relation to any particular authorisation.

Appendix

None