

Cabinet Member (Community Safety & Equalities)  
Audit & Procurement Committee

5 September 2013  
16 September 2013

**Name of Cabinet Member:**

Cabinet Member (Community Safety & Equalities) – Councillor Townshend

**Director Approving Submission of the report:**

Executive Director, People's Directorate

**Ward(s) affected:**

None

**Title:**

*Annual Compliance Report - Regulatory & Investigatory Powers Act (RIPA) & Revised RIPA Policy for Covert Surveillance & Covert Human Intelligence Sources (CHIS)*

---

**Is this a key decision?**

No

---

**Executive Summary:**

To provide:

- An annual report to the Cabinet Member (Community Safety & Equalities), on the Council's compliance with the Regulation of Investigatory Powers Act 2000, as per sections 10.3 of the current Covert Surveillance & Covert Human Intelligence Sources Policy; and
- A revised policy, which takes into account changes as a result of the amendments to the Regulation of Investigatory Powers Act as a result of the Protection of Freedoms Act 2012.

**Recommendations:**

That the Cabinet Member:

- (1) Considers and notes the report and requests the Audit & Procurement Committee receive the report for formal assurance that the Council continues to use its powers under the Regulation of Investigatory Powers Act 2000 in a lawful manner.
- (2) Recommends the Audit & Procurement Committee approves the revised policy.

**List of Appendices included:**

Regulation of Investigatory Powers Act 2000 Covert Surveillance & Covert Human Intelligence Sources Policy

**Other useful background papers:**

Nil

**Other useful background information:**

Nil

**Has it been or will it be considered by Scrutiny?**

No

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

Yes

Audit & Procurement Committee – 16 September 2013

**Will this report go to Council?**

No

**Report title:** Annual Compliance Report - Regulatory & Investigatory Powers Act (RIPA) & Revised RIPA Policy for Covert Surveillance & Covert Human Intelligence Sources (CHIS)

## **1. Context (or background)**

- 1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) enables local authorities to carry out certain types of surveillance activity, as long as specified procedures are followed. The Act sets out a compliance structure within which Coventry City Council can use directed surveillance techniques to support core function activities (eg typically those undertaken by Trading Standards, Environmental Health, Benefit Fraud). The information obtained as a result of surveillance operations can later be relied upon in court proceedings providing RIPA is complied with.
- 1.2 Since 1 November 2012 the Council's ability for core functions to exercise their powers under RIPA have been restricted to offences which may be punishable by a custodial sentence of 6 months, OR are related to the underage sale of alcohol and tobacco. Furthermore, since that date, such applications, including renewals, have required judicial approval.
- 1.3 The role of the Magistrate is to ensure that the correct procedures have been followed and the relevant factors have been taken into account. The new provisions allow the Magistrate, on refusing an approval of an authorisation, to quash that authorisation

## **2. Use of Covert Surveillance or Covert Human Intelligence Sources During 2012**

- 2.1 For the period 1 January – 31 December 2012, the Council authorised 7 requests and refused 1. The following provides an overview of the applications:
  - 5 approved requests covering – premises suspected of selling tobacco to persons under the age of 18
  - 2 approved requests covering – premises suspected of selling illegal cigarettes
  - 1 rejected\* request covering – premises suspected of selling illegal cigarettes.

\* The request was rejected as evidence that offences had been committed had been identified and appropriate action taken. Further surveillance was therefore not necessary.

0 requests during 1 November to 31 December 2012, which would have required judicial approval.
- 2.2 All of the requests covered core functions permitted by the Act and were for the purpose of preventing and detecting crime.
- 2.3 There were no instances where confidential information was obtained.
- 2.4 There were no reported instances of the Council having misused its powers under the Act

### **3. Acquisition & Disclosure of Communications Data**

3.1 For the period 1 January – 31 December 2012, the following applications were submitted to the National Anti-Fraud Network (NAFN), who act as the Council's Single Point of Contact (SPoC):

5 applications and 7 authorisations to acquire communications data relating to service or subscriber data and processed by the Council's SPoC (NAFN)

0 requests during 1 November to 31 December 2012, which would have required judicial approval

3.1 All of the requests covered core functions permitted by the Act and were for the purpose of preventing and detecting crime.

3.2 There were no instances where confidential information was obtained.

3.3 There were no reported instances of the Council having misused its powers under the Act.

### **4. RIPA Training & Scheme of Delegation**

4.1 The Council worked closely with Coventry Magistrates' Court in order to implement the required changes. This included:

- Providing RIPA training on 19 November 2012 to the relevant officers from the Council and the Magistrates' Court;
- Amending the scheme of delegation in order to allow the relevant officers to present their applications to the Magistrates' Court.

### **5. Revised Policy for Covert Surveillance & Covert Human Intelligence Sources**

5.1 A review of the Council's policy for Covert Surveillance and Covert Human Intelligence Sources has been undertaken. (Refer to Appendix 1). The most significant change being the inclusion of the role of the Magistrates' Court and ensuring policy continues to reflect guidance provided by the Home Office and Office of Surveillance Commissioners (OSC).

5.2 A review of the Council's Authorising Officers has been undertaken.

### **5. Comments from Director of Finance and Legal Services**

5.1 **Financial implications** – There are no direct financial implications arising from these changes.

5.2 **Legal implications** – Legislative changes to the current RIPA provisions were introduced by The Protection of Freedoms Act 2012 and The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012, which amended the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010, SI 2010/521.

Periodic review of RIPA Policy and guidance is necessary to ensure that the Council's obligations are met. Consideration and endorsement by Members ensures that appropriate scrutiny is in place. Consideration of RIPA activity as recommended by the OSC guidance ensures that such activity is subject to appropriate scrutiny and control.

The new process requiring attendance at the Magistrates Court is regarded as a 'legal proceeding'. Officers from relevant service areas have been authorised to undertake such proceedings and attend Court by the Assistant Director, Legal Services.

## **6. Other implications**

While the changes in law have introduced an additional step into the process, given the Council's low use of its powers under RIPA, it is not expected to result in any significant delays for planned operations. Routine patrols, observation at trouble 'hot spots', immediate response to events and overt use of CCTV do not require RIPA authorisation.

### **6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?**

As and when judicial approval is sought to use these powers, it will help support the Council's core aims by preventing and detecting crime associated with enforcement activities such as: investigations relating to counterfeiting and fraudulent trading activity, or underage sales of alcohol or tobacco.

### **6.2 How is risk being managed?**

The requirement for the Council to seek judicial approval for any proposed use of its powers under the Regulation of Investigatory Powers Act 2000, as amended by the Protection of Freedoms Act 2012, reduces the risk of the Council using such powers inappropriately or unlawfully. This will help ensure any evidence gained from such use will be admissible in a court of law.

### **6.3 What is the impact on the organisation?**

There is no additional impact on the Council.

### **6.4 Equalities / EIA**

When developing or amending policies and procedures to support the use of directed surveillance, or the use of a Covert Human Intelligence Source, consideration is given to any impact on equalities.

### **6.5 Implications for (or impact on) the environment?**

There are no implications on the environment.

## 6.6 Implications for partner organisations?

There are no implications on partner organisations.

### Report author(s):

**Name and job title:** S Brake, Assistant Director, Policy & Performance and Caldicott Guardian

**Directorate:** Resources Directorate

**Tel and email contact:** 024 7683 1652 [simon.brake@coventry.gov.uk](mailto:simon.brake@coventry.gov.uk)

Enquiries should be directed to the above person.

Contributor/approver name	Title	Directorate or organisation	Date doc sent out	Date response received or approved
<b>Contributors:</b>				
H Simmonds	Head of Regulatory Services	People Directorate	22/8/2013	22/8/2013
C Hickin	Head of Environmental Services	People Directorate	22/8/2013	22/8/2013
J Hutchings	Information Governance Manager	Resource Directorate	22/8/013	22/8/2013
Other members				
<b>Names of approvers for submission:</b> (officers and members)				
Finance: E Dewar	Finance Manager	Resources Directorate	22/8/2013	22/8/2013
Legal: A Bajaj	Solicitor	Resources Directorate	22/8/2013	22/8/2013
Legal: H Lynch	Governance & Litigation Manager	Resources Directorate	22/8/2013	22/8/2013
Members: Councillor Townshend	Councillor	Coventry City Council		

This report is published on the council's website:

[www.coventry.gov.uk/councilmeetings](http://www.coventry.gov.uk/councilmeetings)

### Appendices:

1. RIPA Covert Surveillance and Cover Human Intelligence Source Policy