WIRRAL COUNCIL

AUDIT AND RISK MANAGEMENT COMMITTEE

13 JUNE 2016

SUBJECT:	***REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)***
WARD/S AFFECTED:	***ALL***
REPORT OF:	***HEAD OF LEGAL AND MEMBER SERVICES***
KEY DECISION?	**NO**

1.0   EXECUTIVE SUMMARY

1.1   This report summarises the use of covert surveillance by the Council between 1 February and 31 May 2016.

1.2   This report was requested in the work plan for the Committee.

2.0   BACKGROUND AND KEY ISSUES

2.1   The Regulation of Investigatory Powers Act 2000 (RIPA) governs how public bodies use surveillance methods. The Council may use covert surveillance for the purpose of preventing or detecting crime or preventing disorder.

2.2   The origin of RIPA lies in the Human Rights Act 1998 which places restrictions on the extent to which public bodies may interfere with a person's right to respect for his or her home and private life and correspondence during the course of an investigation into suspected criminal activities. The provisions of RIPA ensure (in summary) that any such interferences are in accordance with the law and are necessary and proportionate (i.e. the seriousness of the suspected crime must outweigh any possible interferences with the personal privacy of the persons being investigated and of persons who associate with them).

2.3   The Council's Constitution authorises Directors to designate Heads of Service and Service Managers to authorise the use of covert surveillance in accordance with the procedures prescribed by RIPA. Since 1 November 2012 such authorisations require the further approval of a magistrate.

2.4   The Office of Surveillance Commissioners (OSC) is responsible for overseeing the operation of RIPA. The OSC inspected the Council on 8 June 2012. The outcome of that inspection was reported to the Committee on 19 September 2012. The Committee approved amendments to the Council's Policy and Guidance Document made in response to the Report which were adopted by the Cabinet on 18 October 2012. There was a further inspection by the OSC on 13 May 2015. The outcome was reported to the Committee on 22 September 2015 when the Committee approved an updated Policy and Guidance Document which took account of the recommendations of the OSC.

3.0 THE USE OF RIPA BY THE COUNCIL

3.1 Since 1 September 2015 the Council has used covert surveillance with the intention of detecting evidence of criminal behaviour as set out below.

3.2 On 8 February and 1 March 2016 magistrates approved authorisations to use covert surveillance to detect suspected flytipping on a site in Wirral.

3.3 On 31 March 2016 a magistrate approved the authorisation of covert surveillance by the Trading Standards Section into suspected illegal trading.

4.0 CHANGES IN LEGISLATION

4.1 The Protection of Freedoms Act 2012 came into force on 1 November 2012 and made the following changes to the law;

- A Magistrate's approval is required for a local authority's use of RIPA. It is in addition to the authorisation needed from a senior officer and the more general oversight by elected councillors.

- Use of RIPA to authorise directed surveillance is confined to cases where the offence under investigation carries a custodial sentence of six months imprisonment or more except in relation to underage sales of alcohol and tobacco, where this sentencing threshold will not apply.

5.0 SUCCESSFUL PROSECUTIONS ARISING FROM COVERT SURVEILLANCE APPROVED BY A MAGISTRATE

5.1 On 18 April 2016 a member of the public pleaded guilty to an offence committed on 20 April 2015 of unlawful flytipping in Riverbank Road, Bromborough. Mixed domestic and builders waste together with a freezer were deposited.

5.2 On 3 May 2016 he received a sentence of 3 months imprisonment suspended for 12 months, a 12 month Community Order and costs of £1,200 to cover clean up, and prosecution costs. He also had to pay a Victim Surcharge of £80.

6.0 RELEVANT RISKS

6.1 These have been discussed in previous reports.

6.2 There is a risk that some investigations of anti-social behaviour will not be able to use covert surveillance because the suspected criminal behaviour does not carry a custodial sentence of 6 months or more.

6.3 The Anti-Social Behaviour Team are however intent on applying to the Court for approval of covert surveillance in suitable cases of suspected harassment of

individuals which would amount to an offence under the Protection from Harassment Act 1997 (which can attract a sentence of 6 months or more imprisonment).

7.0 OTHER OPTIONS CONSIDERED

7.1 None.

8.0 CONSULTATION

8.1 None.

9.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

9.1 None.

10.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

10.1 None at present.

11.0 LEGAL IMPLICATIONS

11.1 The Protection of Freedoms Act 2012 which restricts local authorities use of covert surveillance came into force on 1 November 2012.

12.0 EQUALITIES IMPLICATIONS

12.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

No because there is no proposal which is relevant to equality.

13.0 CARBON REDUCTION IMPLICATIONS

13.1 None.

14.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

14.1 See paragraphs 4 and 6.

15.0 RECOMMENDATION/S

15.1 That the Committee note the contents of this report on the use of covert surveillance.

16.0 REASON/S FOR RECOMMENDATION/S

16.1 The Home Office Code of Practice on covert surveillance requires every Council to report quarterly on its use of RIPA.

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REFERENCE MATERIAL

Authorisations for directed surveillance - exempt from publication because they relate to individuals and may be the subject of continuing investigations into alleged criminal behaviour.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Reports to the Audit & Risk Management Committee	10 June 2013 18 September 2013 28 January 2014 18 March 2014 17 September 2014 27 January 2015 8 June 2015 22 September 2015 17 February 2016