

# **WIRRAL COUNCIL**

## **AUDIT AND RISK MANAGEMENT COMMITTEE**

**14 JUNE 2012**

<b>SUBJECT:</b>	<b><i>REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)</i></b>
<b>WARD/S AFFECTED:</b>	<b><i>ALL</i></b>
<b>REPORT OF:</b>	<b><i>DIRECTOR OF LAW, HR AND ASSET MANAGEMENT</i></b>
<b>KEY DECISION?</b>	<b>NO</b>

### **1.0 EXECUTIVE SUMMARY**

- 1.1 This report summarises the use of covert surveillance by the Council between 17 January 2012 and 1 June 2012.
- 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 or disorder 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.
- 2.4 The Office of Surveillance Commissioners (OSC) is responsible for overseeing the operation of RIPA. The OSC inspected the Council on 1 July 2009. The outcome of that inspection was reported to the Committee on 23 September 2009. The Committee approved amendments to the Council's Policy and Guidance Document made in response to the Report.
- 2.5 New Codes of Practice on covert surveillance have been published by the Home Office. As from 1 April 2010 every Council should report quarterly to its Audit and Risk Management Committee on its use of RIPA. The last such report was made to the Committee on 1 February 2012.

### **3.0 THE USE OF RIPA BY THE COUNCIL**

- 3.1 Between 17 January 2012 and 1 June 2012 the Council granted 4 authorisations for directed covert surveillance.
- 3.2 Two authorisations were granted to obtain evidence of serious offences of fly-tipping at a site in the Borough where the offences were occurring on a regular basis, causing environmental damage and requiring costly cleanup operations.
- 3.3 Two authorisations were granted to obtain evidence of alleged anti-social behaviour. In the first case this was due to alleged harassment; to date the surveillance has recorded incidents that corroborate witness evidence. In the second case, the surveillance was authorised to obtain evidence of breach of an Anti-Social Behaviour Order. Evidence has been secured of multiple breaches which will shortly lead to the arrest of the offender.

### **4.0 CHANGES IN LEGISLATION**

- 4.1 The Protection of Freedoms Act 2012 has now been enacted. When it comes into force the following changes in the law will affect local authorities.
  - Magistrate's approval will be required for local authority use of RIPA and will be 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 will be confined to cases where the offence under investigation carries a maximum custodial sentence of six months or more except in relation to underage sales of alcohol and tobacco, where the threshold will not apply.

### **5.0 TRAINING**

- 5.1 Ibrahim Hasan will be providing on 4 September 2012 a full days training to officers on the new legislation in Wallasey Town Hall. He is one of the leading authorities on RIPA.

### **6. INSPECTION BY THE OFFICE OF SURVEILLANCE COMMISSIONER (OSC)**

- 6.1 OSC has announced that Sir David Clarke, Assistant Surveillance Commissioner, will visit the Council on 8 June 2012 in order to conduct an inspection of the Council's use of covert surveillance.

### **7.0 RELEVANT RISKS**

- 7.1 Less effective prosecution of instances of anti social behaviour when the use of covert surveillance by local authorities is curtailed by the new legislation.

### **8.0 OTHER OPTIONS CONSIDERED**

- 8.1 None.

## **9.0 CONSULTATION**

9.1 None.

## **10.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

10.1 None.

## **11.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS**

11.1 None at present.

## **12.0 LEGAL IMPLICATIONS**

12.1 The Protection of Freedoms Act 2012 will require the Council to review its procedures for authorising directed surveillance, access to communications data and the use of covert human intelligence sources.

12.2 Pending the implementation of the new legislation the Council's current policy on the use of RIPA still applies.

## **13.0 EQUALITIES IMPLICATIONS**

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

No because there is no relevance to equality.

## **14.0 CARBON REDUCTION IMPLICATIONS**

14.1 None.

## **15.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

15.1 See paragraph 4.

## **16.0 RECOMMENDATION/S**

16.1 That members note the contents of the report on the use of covert surveillance.

## **17.0 REASON/S FOR RECOMMENDATION/S**

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

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## **APPENDICES**

None.

## REFERENCE MATERIAL

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

### SUBJECT HISTORY (last 3 years)

<b>Council Meeting</b>	<b>Date</b>
<b>Reports to the Audit &amp; Risk Management Committee</b>	23 September 2009 30 June 2010 28 September 2010 22 November 2010 28 March 2011 30 June 2011 28 September 2011 1 February 2012
<b>Report to the Cabinet</b>	26 November 2010