

AUDIT & RISK MANAGEMENT COMMITTEE – 22 NOVEMBER 2010

REPORT OF THE DIRECTOR OF LAW, HR AND ASSET MANAGEMENT

REGULATION OF INVESTIGATORY POWERS ACT 2000

1. EXECUTIVE SUMMARY

This report summarises the use of covert surveillance by the Council between 1 September and 8 November 2010.

2. BACKGROUND

- 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 the Directors of Law, HR and Asset Management, Technical Services and Finance 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 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 28 September 2010.

3. THE USE OF RIPA BY THE COUNCIL

- 3.1 Between 1 September 2010 and 8 November 2010 the Council granted 9 authorisations for covert surveillance.

- 3.2. Of those authorisations, 5 were for covert surveillance by the Wirral Anti-Social Behaviour Team to gather evidence of serious anti-social behaviour (mainly on housing estates) for use in proceedings for possession injunctions and anti-social behaviour orders. The use of covert surveillance by the installation of cameras and sound recording equipment is a valuable means of overcoming the barriers raised by witness intimidation to evidence obtained by other means. It also is potentially more reliable evidence than the recollection of a witness whose memory may be fallible and whose evidence may be perceived as biased against the defendant.
- 3.3 The reasons for those authorisations were complaints of drunken behaviour, criminal damage, verbal abuse, shouting and intimidation.
- 3.4 Two authorisations were granted for covert surveillance by Wirral Trading Standards officers for use in an investigation with the Police into the sale of fireworks and alcohol to under-age children. Under age volunteers under close supervision entered such premises and attempted to purchase the prohibited goods.
- 3.5 Two authorisations were granted to obtain evidence of serious offences of flytipping at different sites in the Borough where this offence has become a public nuisance.

4. **FINANCIAL, STAFFING, LOCAL AGENDA 21, PLANNING, SOCIAL INCLUSION AND LOCAL MEMBER IMPLICATIONS**

There are no Financial, Staffing, Local Agenda 21, Planning, Social Inclusion and Local Member Implications arising from this report.

5. **EQUAL OPPORTUNITIES IMPLICATIONS**

The purpose of RIPA is to strike a fair balance between the rights of individuals to privacy and the rights of public bodies to act in the public interest to detect and prevent criminal behaviour and disorder.

6. **COMMUNITY SAFETY IMPLICATIONS**

The use of RIPA enables the Council to use covert surveillance to tackle the problem of anti-social behaviour and disorder.

7. **BACKGROUND PAPERS**

The authorisations (which are exempt from publication).

8. **RECOMMENDATIONS**

That the Committee notes the report on the Council's use of RIPA between 1 September and 8 November 2010.