

AUDIT AND RISK MANAGEMENT COMMITTEE 28 SEPTEMBER, 2010

39. REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) – QUARTERLY UPDATE

Further to minute 18 (30 June 2010), the Director of Law, HR and Asset Management presented a summary of the use of covert surveillance by the Council between 1 June and 31 August 2010. He provided details of five authorisations that had been granted during the monitoring period, three of which were for the Wirral Anti-Social Behaviour Team to gather evidence of serious anti-social behaviour; one was for Wirral Trading Standards officers for use in an investigation into under-age sales; and one was for the investigation of possible licensing offences.

He commented also upon recent developments, including the decision of a tribunal (Paton v Poole Borough Council) published on 29 July 2010, which held that surveillance of a family, whose mother was suspected of giving a false address to ensure her children attended the school of her choice, had been unlawful. This was because its purpose had not been for the detection or prevention of crime but to obtain evidence that would justify the Council's withdrawal of the offer of a place at the school in question. The Director assured the Committee that Wirral Council had never used covert surveillance to detect breaches by parents of its Schools Admission Policy.

The Director reported also upon a review by the Government of local authorities' powers under the oversight of Lord MacDonald QC, which was anticipated to recommend that only magistrates could authorise local authorities to use covert surveillance. He commented that this was considered to be an acceptable independent safeguard against improper use of RIPA. However, more controversially, it had been suggested that local authorities should only be allowed to use covert surveillance to detect serious crime, for example, crimes of violence or offences which would usually attract prisons sentences of 3 years or more. He reported that this would mean that local authorities could no longer use RIPA to obtain evidence of anti social behaviour and offences such as the sale of counterfeit goods, fly-tipping or contravention of the licensing laws. He expressed the view that enforcement of the law by local authorities would therefore become substantially more difficult and this would not be in the public interest.

Resolved –

(1) That the report on the Council's use of RIPA be noted.

(2) That the recommendation of the Director of Law, HR and Asset Management to recommend to the Home Office that local authorities be allowed to continue to use covert surveillance to detect crime and disorder, provided it has been authorised by an independent magistrate, be referred to the Cabinet for consideration.