

# WIRRAL COUNCIL

## AUDIT AND RISK MANAGEMENT COMMITTEE

17 SEPTEMBER 2014

<b>SUBJECT:</b>	<b>REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)</b>
<b>WARD/S AFFECTED:</b>	<b>ALL</b>
<b>REPORT OF:</b>	<b>HEAD OF LEGAL AND MEMBER SERVICES</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 1 March and 1 September 2014.
- 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. 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.
- 2.5 On 18 September 2013 the Committee approved an updated Policy and Guidance Document. It was further updated to reflect changes in legislation and approved by the Committee at its meeting on 18 March 2014.

### 3.0 THE USE OF RIPA BY THE COUNCIL

- 3.1 Since 1 March 2014 the Council has used covert surveillance with the intention of detecting evidence of criminal behaviour as set out below.
- 3.2 On 6 May 2014 a magistrate approved an authorisation to use covert surveillance to detect flytipping at a site in Wirral.

- 3.3 On 10 June 2014 a magistrate approved the use of covert surveillance to detect suspected acts of serious criminal damage in a street in Birkenhead.
- 3.4 On 22 August 2014 a magistrate approved the use of covert surveillance to detect unlawful waste deposits at a site in Wirral.

#### **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**

- 5.1 On 25 October 2013 a magistrate approved an authorisation to use covert surveillance to detect flytipping in Buccleuch Street, Birkenhead.
- 5.2 Evidence was obtained which led to the conviction of a local waste carrier for the offence of depositing builder's waste on 11 December 2013 in Buccleuch Street contrary to Section 33 of the Environmental Protection Act 1990.
- 5.3 On 22 April 2014 the carrier pleaded guilty and was fined £300 and ordered to pay costs of £300 plus a victim support surcharge of £30.

#### **6.0 TRAINING**

6.1 On 4 September 2014 Ibrahim Hasan conducted his annual training event on RIPA for authorising and applying officers.

#### **7.0 RELEVANT RISKS**

- 7.1 These have been discussed in previous reports.
- 7.2 There is a risk that some investigations of anti-social behaviour will not be able use covert surveillance because the suspected criminal behaviour does not carry a custodial sentence of 6 months or more.
- 7.3 The Anti-Social Behaviour Team are however exploring the possibility of 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).

#### **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 which restricts local authorities use of covert surveillance came into force on 1 November 2012.

## **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 proposal which is relevant to equality.

## **14.0 CARBON REDUCTION IMPLICATIONS**

14.1 None.

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

15.1 See paragraphs 4 and 6.

## **16.0 RECOMMENDATION/S**

16.1 That the Committee note the contents of this 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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## **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)**

<b>Council Meeting</b>	<b>Date</b>
<b>Reports to the Audit &amp; Risk Management Committee</b>	28 March 2011
	30 June 2011
	28 September 2011
	1 February 2012
	14 June 2012
	19 September 2012
	10 June 2013
	18 September 2013
	28 January 2014
	18 March 2014
<b>Report to the Cabinet</b>	18 October 2012