

**STOCKTON-ON-TEES BOROUGH COUNCIL**

**CABINET RECOMMENDATIONS**

**PROFORMA**

Cabinet Meeting .....25th June 2015

1. Title of Item/Report

Regulation of Investigatory Powers Act 2000

2. Record of the Decision

Consideration was given to a report that provided feedback regarding the Office of Surveillance Commissioners (“OSC”) inspection which took place on 9 April; to confirm the Council’s revised Corporate Policy and Procedures Document; to affirm the changes to the Council’s Authorising Officers and the role of senior responsible officer and to receive details of the surveillance activity carried out during 2014/15.

Under RIPA, authorities such as the Council could authorise:-

- Directed surveillance (e.g. covert camera surveillance) in a manner likely to obtain private information about an individual;
- A covert human intelligence source (“CHIS”) which is someone who establishes or maintains a personal or other relationship with another individual for the covert purpose of obtaining information; and the
- Acquisition of communications data (e.g. not the contents of a communication, but information about the use made by a person of any postal or telecommunications service);

The only grounds for such authorisations were for the prevention or detection of crime or of preventing disorder.

Only certain prescribed officers could sign authorisations (i.e. Director, Head of service, Service manager or equivalent).

All authorisations or renewals for directed surveillance in a manner likely to obtain private information about an individual, or use or conduct of a Covert Human Intelligence Source or the acquisition of communications data could only be implemented if judicial approval was first obtained. To date, all applications for judicial approval had been granted.

The directed surveillance crime threshold was detailed within the report.

An authority exercising RIPA powers must have a corporate policy and procedure to regulate how the powers were exercised and the RIPA activity which took place.

Councillors should review an Authority's use of RIPA and agree the policy at least once a year.

Councillors should also consider internal reports on the use of RIPA on at least a quarterly basis, to ensure that it was being used consistently with the policy and the policy remained fit for purpose. They should not however be involved in making decisions on specific authorisations.

It was good practice for a senior responsible officer (who should be a member of the Corporate Management Team) to be made responsible for:-

- the integrity of the process in place within the local authority for the management of CHIS;
- compliance with Part II of RIPA and with the Code of Practice;
- oversight of the reporting of errors to the relevant Commissioner and the identification of both the cause(s) of errors and the implementation of processes to minimise repetition of errors;
- engagement with the Office of the Surveillance Commissioner (OSC) inspectors when they conduct their inspections, where applicable; and
- ensuring that all authorising officers are of an appropriate standard in light of any recommendations in the inspection reports prepared by the OSC; and
- where the inspection report highlights concerns about the standards of authorising officers, ensuring the concerns are addressed.

The Director of Law and Democracy continued to be the Council's senior responsible officer.

An inspection by the OSC took place on 9 April 2015. This was conducted by Mr David Buxton, Surveillance Inspector.

As a result of the inspection, the Chief Surveillance Commissioner indicated that he was pleased to see that the recommendations made following the inspection 3 years ago had been completed and that good practice was identified in the approach of the Council's senior responsible

officer to his responsibilities and in the content of the Council's policy.

He also was of the opinion that the Council took its RIPA responsibilities seriously and achieves a good level of legislative compliance.

The surveillance Inspector recommended as follows:

“Recommendation 1 – The Council should review its RIPA policy manual in accordance with the observations made at paragraph 7.2 of this report (regarding urgent authorisations)”

Recommendation 2 – In cases of operations involving test purchases of sales to juveniles, the Council should review its current approach and ensure that in all cases where juveniles are used to make test purchases of alcohol or tobacco, a risk assessment is prepared in relation to the activities of the juvenile and that the role of the supporting adult is considered by the AO and an appropriately informed decision made as to whether or not a directed surveillance authorisation is required.

Recommendation 3 - The council should review its practices with regards to the use of CHIS and ensure that it addresses the observations made in this report at paragraphs 9.9 to 9.12 with regards to risk assessments, the wording of authorisations, and the responsibilities associated with paragraphs 29(5)(a) and 29(5)(b) RIPA (having an officer with day to day responsibility of a CHIS and a different Officer with general oversight of the use made of the source)”

The Chief Surveillance Officer had been informed that the Council accepted these recommendations and that the necessary action would be taken to ensure that all of the recommendations are implemented.

The Council's policy and procedure document had been reviewed and revised in order to reflect the comments and recommendations referred to in the Inspector's report. This included revisions to the RIPA authorisation forms.

Trading Standards had reviewed the approach and procedures regarding surveillance in respect of the alleged illicit sale of alcohol and tobacco to underage juveniles, in order to ensure that the appropriate assessments of risk took place and that the guidance provided by the OSC informs the way in which the surveillance was authorised and was carried out.

Again, Trading Standards had re-considered its practices and procedures regarding the use of CHIS, in order to ensure that they addressed the Inspector's observations in relation to risk assessment for CHIS authorisations; the wording of those authorisations (so that they were not

overly restrictive or constraining); and the responsibilities of the CHIS handler (an Officer with day to day responsibility for a CHIS) and the controller (a different Officer with responsibility for the general oversight of the use made of the source).

The current Authorising Officers are the Chief Executive, the Corporate Director of Resources; the Director of Law and Democracy and the Community Safety Manager. However, as a result of the retirement of the Trading Standards and Licensing Manager in April there was no Officer authorised in relation to Trading Standards and Licensing, the service area responsible for the vast majority of RIPA authorisations and RIPA activity. Accordingly, the Head of Democratic Services, who now had management responsibilities for Trading Standards and Licensing, had been confirmed as the new Authorising Officer for that service area. Appropriate training had been given and on-going support would continue to be provided.

During 2014/15 the following covert surveillance activity took place:-

- Directed Surveillance - The number of directed surveillance authorisations granted during the year:- 1  
The number of authorisations in force at the end of the year:- 0
- CHIS - The number of CHIS recruited during the year:- 2 The number of CHIS authorisations in force at the end of the year:- 1
  
- Communications Data (to 31 December 2014)  
Number of applications authorised by a Designated Person - 1  
Number of applications submitted to a Designated Person that were rejected - 1

Number of notices requiring disclosure of communications data under Section 21(4) of RIPA - 2

Number of authorisations for conduct to acquire communications data under Section 21(4) of RIPA - 0

Specific details of the RIPA activity that had taken place during 2014/15 were attached to the report.

Cabinet would continue to receive such information in the six monthly Finance and Performance reports, and two further quarterly reports, consisting of anonymised RIPA activity information, would be emailed to all Members.

RESOLVED that:-

1. The outcome of the OSC inspection which took place on 9 April 2015 and the action proposed to implement its recommendations be noted.

2. The RIPA Corporate Policy and Procedures Document as revised following the OSC inspection be confirmed.

3. The changes to the Council's Authorising Officers and the continuing role of the Director of Law and Democracy as the senior responsible officer for RIPA be affirmed.

4. The details relating to RIPA activity carried out during 2014/15 be noted.

3. Reasons for the Decision

The report and recommendations will ensure that Members are aware of the outcome of the OSC inspection and its implications for the Council's corporate policy and procedures, and that the Authority's arrangements regarding RIPA meet legislative requirements and Home Office good practice guidance.

4. Alternative Options Considered and Rejected

None.

5. Declared (Cabinet Member) Conflicts of Interest

None.

6. Details of any Dispensations

N/A

7. Date and Time by which Call In must be executed

Midnight, Friday, 3rd July 2015

Proper Officer  
29 June 2015