

**TO: EXECUTIVE
21 OCTOBER 2014**

**AMENDMENT TO THE COUNCIL'S POLICY ON DIRECTED SURVEILLANCE AND USE
OF COVERT HUMAN INTELLIGENCE SOURCES UNDER THE REGULATION OF
INVESTIGATORY POWERS ACT 2000 (RIPA)**

Director of Corporate Services – Legal

1 PURPOSE OF REPORT

- 1.1 To seek approval to the draft amendments to the Council's Policy on Directed Surveillance and Use of Covert Human Intelligence Sources.

2 RECOMMENDATION(S)

- 2.1 **That the draft policy on Directed Surveillance and Use of Covert Human Intelligence Sources at Appendix be approved.**

3 REASONS FOR RECOMMENDATION(S)

- 3.1 To implement the recommendations of the Assistant Surveillance Commissioner following an inspection and a review of the Council's Policy on Directed Surveillance and Use of Covert Human Intelligence Sources under the Regulation of Investigatory Powers Act 2000 (RIPA) and the Human Rights Act 2000.
- 3.2 To ensure that the Council's Policy on Directed Surveillance and Use of Covert Human Intelligence Sources is up to date.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 None.
- 4.2 The Council should have a Policy which is up-to-date, reflects good practice and the statutory Code of Practice in relation to the use of RIPA.

5 SUPPORTING INFORMATION

- 5.1 On 13th March 2014, the Council's policy and procedure was subject to an inspection by an Assistant Surveillance Commissioner from the Offices of the Surveillance Commissioners. He also undertook a review of the Council's RIPA Policy on the Use of Covert Human Intelligence Sources.
- 5.2 As part of his review, the Commissioner made the following key recommendations which would involve a change to the Council's current RIPA Policy:-
- 5.2.1 The Director of Corporate Services should relinquish her current role as an Authorising Officer for RIPA but should remain the Senior Responsible Officer for RIPA.

- 5.2.2 The Council's current Policy should be updated to incorporate a reference to the Council's Central Register of authorisations. A central record of all applications for authorisation under RIPA is kept by the RIPA Monitoring Officer.
- 5.2.3 Paragraphs 7.1, 8.1, 10.1, and 13.4 of the current Policy which includes references to urgent oral authorisation should be deleted. This is because it is no longer necessary due to the change in the legislative requirement that now applies to RIPA. Magistrates' Court approval now needs to be sought in respect of all applications under RIPA.
- 5.3 The Council's operational use of RIPA was also the subject of the inspection and the Commissioner made the following additional recommendations:-
- 5.3.1 That all applications for juvenile "test purchases" in respect of the sale of alcohol to underage persons, address the issues of necessity and proportionality in relation to each of the listed premises which is subject to RIPA applications. This generally applies to covert directed surveillance of shop premises.
- 5.3.2 That Officers should undertake training which specifically addresses the issues of necessity and proportionality. This is an essential aspect of the RIPA application which is now subject to judicial approval.
- 5.3.3 Further training should also be provided for officers in the completion of RIPA forms.
- 5.3.4 That the Council should consider establishing a detailed training schedule itemising the training provided to all Officers with RIPA responsibilities.
- 5.3.5 The Commissioner also recommended some minor changes to the layout of the Central Record.
- 5.4 The Commissioners' recommendations set out in paragraphs 5.3.1 -5.3.4 are being implemented as a matter of good practice.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 6.1 The Borough Solicitor is the author of this report

Borough Treasurer

- 6.2 There are no financial implications directly arising

Equalities Impact Assessment

- 6.3 Not required

Strategic Risk Management Issues

- 6.4 None

Other Officers

6.5 None

Background Papers

Office of Surveillance Commissioner's Inspector's Report 13th March 2004.

BFBC Policy on Directed Surveillance and Use of Covert Intelligence Sources March 2010.

Protection of Freedoms Act 2012. Changes to the provisions under the Regulation of Investigatory Act 2000 (RIPA).

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