

APPENDIX C

FOR PUBLICATION

REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

ANNUAL REPORT TO STANDARDS COMMITTEE 2017

MEETING: STANDARDS AND AUDIT COMMITTEE

DATE: 5 APRIL 2017

REPORT BY: MONITORING OFFICER

WARD: ALL

FOR PUBLICATION

1.0 PURPOSE OF REPORT

- 1.1 To give an annual report to members on activities relating to surveillance by the Council and policies under the Regulation of Investigatory Powers Act 2011.

2.0 RECOMMENDATION

- 2.1 To note the report.

3.0 BACKGROUND

3.1 RIPA

Chesterfield Borough Council has powers under the Regulation of Investigatory Powers Act 2000 (RIPA) to conduct authorised directed surveillances (DI) and use of human intelligence sources (CHIS) in certain circumstances in connection with the conduct of criminal investigations.

3.2 Reporting to Members

This report is submitted to members as a result of the requirement to report to members under paragraph 3.35 of the Home Office Code of Practice for Covert Surveillance and Property Interference. Further reports will be submitted annually whether or not there has been any authorised surveillance.

3.3 Background

All directed surveillances (covert, but not intrusive) and use of covert human intelligence sources (CHIS) require authorisation by a senior Council officer and the exercise of the powers is subject to review. The controls are in place in accordance with the Human Rights Act, particularly the right to respect for family and private life.

3.4 The Office of the Surveillance Commissioner (OSC) oversees the exercise by Councils of their surveillance powers.

3.5 A Confidential database of authorised surveillances is maintained, charting relevant details, reviews and cancellations. There have been no authorisations since 2010.

3.6 Substantial changes were made to the powers of Local Authorities to conduct directed surveillance and the use of human intelligence sources under the Protection of Freedoms Act 2012.

3.7 As from 1 November 2012 Local Authorities may only use their powers under the Regulation of Investigatory Powers Act 2000 to prevent or detect criminal offences punishable by a minimum term of 6 months in prison (or if related to underage sale of alcohol and tobacco – not relevant to this Council). The amendment to the 2000 Act came into force on 1 November 2012.

- 3.8 Examples of where authorisations could be sought are serious criminal damage, dangerous waste dumping and serious or serial benefit fraud. The surveillance must also be necessary and proportionate. The 2012 changes mean that authorisations cannot be granted for directed surveillance for e.g. littering, dog control, fly posting.
- 3.9 As from 1 November 2012 any RIPA surveillance which the Council wishes to authorise must be approved by an authorising officer at the council and also be approved by a Magistrate; where a Local Authority wishes to seek to carry out a directed surveillance or make use of a human intelligence source the Council must apply to a single Justice of the Peace.
- 3.10 The Home Office have issued guidance to Local Authorities and to Magistrates on the approval process for RIPA authorisations.

4.0 Activity over past year

- 4.1 During 2016 no directed surveillances (DS) or use of human intelligence sources (CHIS) were authorised by the Council under the Act.
- 4.2 Officer training was carried out by Weightman's solicitors in February 2016.
- 4.3 A routine inspection of the Council's procedures took place in March 2016 (see below).
- 4.4 The annual request for statistical returns to the Surveillance Commissioner has been received by the Council's Local Government and Regulatory Law Manager, for return by April 2017.
- 4.5 A report has been submitted to the Cabinet Member for Finance and Governance reviewing the Council's surveillance policy and practices.

5.0 OSC Inspection

- 5.1 In March 2016 a surveillance inspector conducted a routine inspection of the Council's procedures. All surveillance authorities are inspected every few years. The previous inspection was in 2012 and before that in 2010.
- 5.2 The inspector, while noting that no authorised surveillance had taken place since 2010, recommended various changes to practices so the Council could maintain a state of readiness in case it ever needed to seek authorisation. The recommendations are set out in the report to Cabinet Member attached, but are summarised as follows. The Council should:
- (a) maintain a state of preparedness
 - (b) ensure regular corporate training for appropriate officers and access to procedures and guidance
 - (c) understand more about Arvato and Kier's knowledge about and involvement with the process
 - (d) review who should be the Senior Responsible Officer overseeing the process
 - (e) carry out biannual audit of processes
 - (f) regularly review policy and guidance
 - (g) report at least annually to members, regardless of any activity
 - (h) ensure up to date CCTV procedures are in place
 - (i) ensure liaison with local magistrates court

6.0 Relevant Portfolio

- 6.1 To reflect the significance of RIPA in terms of governance, responsibility for this function has now been moved by the Leader to the Cabinet Member for Finance and Governance.
- 6.2 Previously RIPA matters were with the Lead Member/Cabinet Member with responsibility for functions relating to criminal proceedings.
- 6.3 The Constitution will be updated to reflect this change.

7.0 Surveillance Policy

- 7.1 The Council's RIPA Policy and Procedure Guide reflects the current law. It has also been updated to take account of new CMT structure, recommendations of the 2016 OSC Inspection and current best practice. The revised policy has been approved by the Cabinet Member for Finance and Governance.
- 7.2 The revised policy is attached and is available on Aspire at: <https://aspire.interactgo.com/Interact/Pages/Content/Document.aspx?id=1782>

8.0 Activity in the current year

- 8.1 Looking forward, the council's procedures continue to be strengthened in the light of best practice and the OSC's recommendations, while noting that corporately authorisation process is very rarely appropriate or necessary and has not been used since 2010.
- 8.2 A new training system for relevant staff is being developed and implemented using Aspire Learning, with appropriate training modules. This will ensure officers receive relevant and appropriate mandatory training which can be monitored. As there will be a lead-in time for the system to be implemented it will be supplemented by early refresher training (face to face, circulation of training materials etc). Legal staff will continue to attend online and face to face seminars to keep up to date with the law.
- 8.3 A greater understanding is to be obtained of the overt surveillance carried out by services of the Council and its partners organisations Arvato and Keir.
- 8.4 A RIPA update has been sent to relevant officers. More detailed information will be placed on the RIPA pages of the Council's intranet.
- 8.5 New guidance will be developed, for example, on the use of body cams by Council enforcement staff.

9.0 RECOMMENDATION

9.1 To note the report.

10.0 REASON FOR RECOMMENDATION

10.1 To enable the Council to operate the RIPA system effectively and as required by law and guidance.

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