

# **FOR PUBLICATION**

## **CHESTERFIELD BOROUGH COUNCIL'S SURVEILLANCE POLICY (B000)**

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MEETING:                   1.    CABINET  
                                  2.    EXECUTIVE MEMBER FOR GOVERNANCE  
  AND ORGANISATIONAL DEVELOPMENT

DATE:                     1.    20 MAY 2014  
                                  2.    12 MAY 2014

REPORT BY:                HEAD OF GOVERNANCE

WARD:                     ALL

KEY DECISION             Non-Key Decision 27  
REFERENCE  
(IF APPLICABLE):

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FOR PUBLICATION

BACKGROUND PAPERS FOR PUBLIC REPORTS:  None

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### 1.0   **PURPOSE OF REPORT**

1.1   To seek Cabinet approval to amendments made to the Surveillance Policy, necessitated by the amendments made to the Regulation of Investigatory Powers Act 2000 by the Protection of Freedoms Act 2012.

### 2.0   **RECOMMENDATION**

2.1   That Cabinet approve the amended Surveillance Policy (attached at Appendix 1),

2.2   That Cabinet agree its dissemination to relevant officers to ensure compliance with legislation.

### 3.0 **BACKGROUND**

- 3.1 The Regulation of Investigatory Powers Act 2000 (RIPA) was enacted following the Human Rights Act 1998. Its purpose is to protect human rights by providing a statutory basis for surveillance exercises to ensure the legality of the investigatory activity, thus making public authorities less vulnerable to challenges under the Human Rights Act for breaches of Article 8 – breaches of the right to family life and privacy. Surveillance activity must only be carried out where it is considered necessary and proportionate or it may be in breach of Article 8.
- 3.2 Briefly, the Surveillance Policy sets out an explanation of the human rights principles underpinning investigatory work and provides guidance for officers on making an application for authorisation to carry out Directed Surveillance, and, on being given an authorisation, the requirements for carrying out the investigation and ultimately terminating the authorisation. Directed Surveillance is carried out so that the person subject to it is not aware that it is taking place. The Policy specifies the senior officers with responsibility to assess applications and grant authorisations. The importance of having an up to date Policy and procedures is highlighted by the programme of inspections of local authorities carried out at approximately three year intervals by an officer of the Office of Surveillance Commissioners. Policy and procedures are reviewed and a report made to the Chief Executive with any recommendations for changes.
- 3.3 RIPA was substantially amended by the Protection of Freedoms Act 2012. In summary, the 2012 Act (which came into force in November 2012) reduced the powers available to local authorities.
- 3.4 Firstly, it provided that RIPA authorisations could only be used for preventing or detecting more serious crimes which are punishable by at least 6 months' imprisonment or concern sales of alcohol or tobacco to children, thus preventing authorisations for 'low level offences' such as littering, dog fouling or fly-posting. This Council had not used Directed Surveillance for such offences, but dealt with them (as it does now) by overt non-secret surveillance.
- 3.5 Secondly, the 2012 Act required authorisations given by Council appointed officers to be approved by a Magistrate. It is therefore necessary for the procedural changes to be set out in the Surveillance Policy.

#### 4.0 **FINANCIAL IMPLICATIONS**

4.1 There are no specific implications arising from the contents of this report. However, the changes to RIPA mean that it will probably be much less frequently used by the Council, and no authorisations have been made since the restriction to serious crimes was made.

#### 5.0 **LEGAL IMPLICATIONS**

5.1 There are none arising from the contents of the report.

#### 6.0 **EQUALITIES IMPLICATIONS**

6.1 A full Equality Impact Assessment was undertaken for the previous version of the Policy. This EIA has been revisited and considered to remain relevant. The proposed changes do not adversely affect any protected characteristics.

#### 7.0 **RISKS AND UNCERTAINTIES**

7.1 This report concerns the accuracy of advice and procedural information made available to officers carrying out investigatory work. All policies adopted by the Council have to be published and made available for public scrutiny.

<b>Description of risk</b>	<b>Likelihood</b>	<b>Impact</b>	<b>Mitigating Action</b>
An out-dated and materially incorrect policy being accessed by officers, members of the public or being in place during inspection of the Council's procedures by an officer of the OSC.	M	H	Publicise the adoption of a new version of the Policy and its availability on the intranet to officers. Provide legal guidance and assistance to investigatory officers as required or requested.

#### 8.0 **RECOMMENDATION**

8.1 That Cabinet approve the amended Surveillance Policy (attached at Appendix 1)

8.2 That Cabinet agree its dissemination to relevant officers to ensure compliance with the legislation.

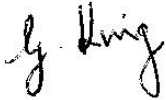
9.0 **REASON FOR RECOMMENDATION**

9.1 To provide clear guidance and assistance to staff who are considering the use of surveillance procedures in the investigation of crime.

SARA T. GOODWIN  
HEAD OF GOVERNANCE

You can get more information about this report from Amanda Walker, Solicitor, Local Government & Regulatory Law Team (345309/ 345311)

Officer recommendation supported/not supported/modified as below or Executive Members' recommendation/comments if no Officer recommendation.



Signed

Executive Member

Date: 12.5.14

Consultee Executive Member/Support Member comments (if applicable)