

# REPORT FOR DECISION

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| <b>Report to</b>  | <b>Audit Committee</b>  |
| <b>DATE:</b>  | <b>3 March 2014</b>   |
| <b>SUBJECT:</b>   | <b>REGULATION OF INVESTIGATORY POWERS ACT 2000 ("RIPA") – ANNUAL REPORT 2013</b>  |
| <b>REPORT FROM:</b>   | <b>Deputy Leader of the Council and Cabinet Member for Finance and Corporate Affairs</b>  |
| <b>CONTACT OFFICER:</b>   | <b>Monitoring Officer</b>   |
| <b>TYPE OF DECISION:</b>  | <b>Committee</b>  |
| <b>FREEDOM OF INFORMATION/STATUS:</b>   | This paper is within the public domain  |
| <b>SUMMARY:</b>   | This report appraises Members of the Council's responsibilities under the Regulation of Investigatory Powers Act 2000 (RIPA) and of the outcome of a recent inspection by the Office of Surveillance Commissioners. |
| <b>OPTIONS &amp; RECOMMENDED OPTION</b>   | 1. Members are asked to note the contents of this report and the inspection report of the Office of Surveillance Commissioners (His Honour Judge Hodson) – Appendix A   |
| <b>IMPLICATIONS:</b>  |   |
| <b>Corporate Aims/Policy Framework:</b>   | Do the proposals accord with the Policy Framework? Yes  |
| <b>Statement by the S151 Officer: Financial Implications and Risk Considerations:</b> | There are no financial implications   |

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| <b>Statement by Executive Director of Resources:</b> | There are no risk management issues                         |  |
| <b>Equality/Diversity implications:</b>              | There are none  |  |
| <b>Considered by Monitoring Officer:</b>             | Yes<br><br>The legal implications are set out in the report |  |
| <b>Wards Affected:</b>                               |   |  |
| <b>Scrutiny Interest:</b>                            | Overview and Scrutiny Panel                                 |  |

**TRACKING/PROCESS**

**DIRECTOR:  
Executive Director of Resources**

| Chief Executive/<br>Strategic Leadership<br>Team | Cabinet<br>Member/Chair | Ward Members | Partners |
|--|-------------------------|--------------|----------|
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| Scrutiny Committee                               | Cabinet/Committee       | Council      |          |
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**1.0 BACKGROUND**

- 1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) was designed to regulate the use of investigatory powers and to satisfy the requirements of the Human Rights Act 1998. RIPA regulates the use of a number of covert investigatory techniques, not all of which are available to local authorities. The three types of technique available to local authorities are the acquisition and disclosure of communications data (such as telephone billing information); directed surveillance (covert surveillance of individuals in public places); and covert human intelligence sources (such as the deployment of under-cover officers).
- 1.2 On 1 November 2012, the law on RIPA was changed, so that the approval of local authority authorisations (under RIPA) have to be by a Magistrate, and any directed surveillance must meet a crime threshold.
- 1.3 Local authorities sometimes need to use covert techniques in support of their statutory functions, such as to enforce the law in areas such as taxi regulation, benefit fraud, environmental crime, and anti-social behaviour. The Council uses the powers under RIPA to conduct authorised directed surveillance in connection with the conduct of criminal investigations.

Although the Council is also committed under RIPA to authorise the interception of communications data and the use of covert intelligence sources; it has not done so since the legislation came into force. The amendments to the legislation mean that the Council can now only grant an authorisation under RIPA for the use of directed surveillance where it is investigating particular types of criminal offences. These are criminal offences which attract a maximum custodial sentence of six months or more or criminal offences relating to the under-age sale of alcohol or tobacco. The Council cannot authorise directed surveillance for the purposes of preventing disorder unless this involves a criminal offence (again punishable by a maximum term of at least six months imprisonment).

- 1.4 The Council may therefore continue to authorise the use of directed surveillance in more serious cases, but the authorisation must be necessary and proportionate and given prior approval from a Magistrate. Examples of cases where the offence being investigated attracts the maximum custodial sentence of six months or more, could include; serious criminal damage, dangerous waste dumping and serious or serial benefit fraud. This means that low level offences such as littering, dog control and fly posting will not be authorised for the use of directed surveillance under RIPA.

## **2.0 The Council's Use of RIPA**

- 2.1 In the recent past the numbers of authorisations for directed surveillance have been: four in 2010/11, three in 2011/12 and eight in 2012/13. As may be noted in the attached inspection report from the Office of Surveillance Commissioners, the inspector reviewed and approved a sample from each year.
- 2.2 In the inspection period there was only one authorisation that required judicial approval and this had been successfully obtained before the Magistrates, just two weeks after the start of the new regime. The role of the Magistrate is to ensure that the correct procedures have been followed and that the relevant factors have been taken into account. This particular authorisation involved anti social behaviour (some criminal damage was recorded).

## **3.0 Acquisition and Disclosure of Communications Data**

- 3.1 For the period 2012 to 2013 two authorisations were made by the designated officer under the National Anti Fraud Network RIPA telecommunications service (located at Tameside Council). The Council has made three applications to the Magistrates Court under the new provisions, attempting to get names and addresses linked to telephone numbers.

## **4.0 The Council's Policy Guide and Forms**

- 4.1 As is set out in the inspection report of the Office of Surveillance Commissioners, the single recommendation was to amend the Council's Policy Guide as indicated in Paragraphs 8, 9 and 10 of that report. Whilst the Guide had been kept up to date, in terms of the legislative changes, some drafting amendments were still required. The forms and notes for investigating and authorising officers also needed to be revised and the new form for Magistrates approval needed to be included within the suite of documents. Amendments to the existing policy guide to support the recommendations of the external inspection and to ensure the Council continues to be compliant with its use of such surveillance are being made on the Intranet.

## **5.0 CCTV**

5.1 For Members information, the Council does not use CCTV cameras for any covert surveillance at all. They are used for overt surveillance and shared by the Police and other partner agencies.

## **6.0 Conclusion**

6.1 As and when judicial approval is sought to use these powers, it will help support the Council's aims by preventing and detecting crime associated with the Council's functions. Members are, therefore, asked to note the contents of this report and the successful inspection.

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### **List of Background Papers:-**

None

### **Contact Details:-**

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