

TUESDAY, 16 DECEMBER 2014

REPORT OF THE SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

REGULATION OF INVESTIGATORY POWERS ACT 2000

OFFICE OF SURVEILLANCE COMMISSIONER - INSPECTION

PURPOSE

To inform Members of the outcome of the visit from the Office of Surveillance Commissioner on 6 October 2014.

To advise Members of proposed changes to the RIPA Policy arising therefrom

RECOMMENDATIONS

- 1. That Members endorse the outcomes arising from the visit by the Office of Surveillance Commissioner.**
- 2. That Members approve the changes to the RIPA Policy.**

EXECUTIVE SUMMARY

The Council is subject to regular inspections by the Office of the Surveillance Commissioner (OSC) who report on our policy, procedures, documentation and training. An inspection was carried out on 6 October 2014. The Commissioner reported that the recommendations made following the last inspection on 18 July 2011 had been discharged:- "Tamworth Borough Council has reduced its reliance on covert surveillance as a tool of investigation to an absolute minimum. Indeed it has carried out no such surveillance since the last inspection and considers that the likelihood of doing so in the future to be small. It has perfectly good reasons for this approach. Nevertheless it is maintaining in place a RIPA system which, if required, should prove more that adequate for the purpose. This is in no small way due to the endeavours of Mrs Hackett who assumes responsibility for RIPA throughout the Council. Indeed in 2008 the Council was subjected to heavy criticism in the OSC report of that year for its poor RIPA performance. It has undoubtedly been due to Mrs Hackett that the Council has since created such an efficient system."

The Commissioner has recommended that

- (1) RIPA awareness is increased throughout the Council.
- (2) in light of the emerging use of social networking sites in services undertaking investigations the Council avoid a drift into directed surveillance/CHIS.
- (3) suggested amendments are incorporated the Council's Policy and Guidance on RIPA. This is attached at Appendix 1

To implement the recommendations of the Commissioner training will be rolled out to all of

Corporate Management Team and Heads of Service for onward dissemination through all services at staff meetings. In addition the amended RIPA Policy and Guidance document will be placed on Net consent for all staff to read and answer a few basic questions. Periodic emails will be sent out to all staff outlining the basic requirements of RIPA. The register of technological "recording" equipment will be amended to include a section to list the use made of such equipment. Staff in enforcement and investigatory services such as Benefits and Licensing have been appraised of the Commissioners recommendation regarding the risk of status drift in relation to the use of social networking sites. All of this action will ensure that the correct procedures are being and will continue to be maintained in relation to RIPA.

OPTIONS CONSIDERED

The only option in this situation is to fulfil the Information Commissioners recommendations and act upon them. To ignore the recommendations is not an option.

RESOURCE IMPLICATIONS

The recommendations and changes to the policy and additional training can be met from existing resources.

LEGAL/STATUTORY AND RISK IMPLICATIONS

The recording of applications, authorisations, renewals and cancellations of investigations using covert surveillance techniques or involving the acquisition of communications data is covered by the Regulation of Investigatory Powers Act 2000.

The Regulation of Investigatory Powers Act was introduced to regulate existing surveillance and investigations in order to meet the requirements of Article 8 of the Human Rights Act. Article 8 states: Everyone has the right for his private and family life. His home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the Country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

RIPA investigations can only be authorised by a local authority under RIPA where it is investigating criminal offences which (1) attract a maximum custodial sentence of six months or more or (2) relate to the sale of alcohol or tobacco products to children.

There are no risk management nor Health and Safety implications.

SUSTAINABILITY IMPLICATIONS

The legislation requires the Authority to sustain a policy and train staff in this area accordingly the policy is kept up to date as is staff training and awareness of the requirements in this area.

BACKGROUND INFORMATION

The Council has a number of statutory functions that involve officers investigating the conduct of others with a view to bringing legal action against them. These functions include investigating anti-social behaviour, fly tipping, noise nuisance control, planning (contraventions), benefit fraud, licensing and food safety legislation.

Whilst the majority of investigations are carried out openly, some investigations must be

carried out using covert surveillance techniques or involve the acquisition of communications data. Communications data is information about the times of calls or internet use and the location and identity of the callers but not the content of the calls or the details of the websites viewed.

The Regulation of Investigatory Powers Act 2000 regulates the authorisation and monitoring of these investigations to safeguard the public from unwarranted intrusion of privacy. Following media interest relating to the use of covert surveillance and acquisition of communications data by local authorities the Act was amended. The amendments took effect from 1 November 2013. As a result all Local Authority RIPA applications and renewals must obtain Justice of the Peace approval.

The Solicitor to the Council and Monitoring Officer is the Senior Responsible Officer (SRO) and RIPA Co-ordinating Officer for the Authority in relation to RIPA and as such responsible for the integrity of the process and for ensuring that the Authorised Officers and staff have received appropriate training. The SRO also maintains a central register of all applications and authorisations, reviews and cancellations of authorisations relating to directed surveillance under RIPA.

The Authority has four Authorising Officers to deal with applications under RIPA. The Authorising Officers are:

Tony Goodwin :- Chief Executive
John Wheatley :- Executive Director Corporate Services
Andrew Barratt:- Director Assets and Environment
Rob Mitchell:- Director Communities, Planning & Partnerships

REPORT AUTHOR

Jane Hackett, Solicitor to the Council and Monitoring Officer Tel;709258.
Email jane-hackett@tamworth.gov.uk

LIST OF BACKGROUND PAPERS

Regulation of Investigatory Powers Act 2000 (as amended)
The Covert Surveillance and Property Interference Code of Practice

APPENDICES

APPENDIX 1 - The revised RIPA policy showing the recommended inclusions in italic script

This page is intentionally left blank