

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1.	Meeting:	Cabinet
2.	Date:	9th April 2014
3.	Title:	Outcome of Inspection by the Office of Surveillance Commissioners
4.	Directorate:	Resources

5. Summary

A report on the findings on an inspection report by His Honour Norman Jones QC of the Office of Surveillance Commissioners (OSC).

6. Recommendations

That Cabinet:-

(1) Notes the outcomes of the inspection by the Office of Surveillance Commissioners

(2) Approves the implementation of the recommendations from the Inspectors report

7. Proposals and Details

The Council was inspected on the 11th February 2014 by HH Jones in respect of its Regulation of Investigatory of Powers Act 2000 (RIPA) policy and procedures. These RIPA policies and procedures relate to the Council's use of covert surveillance in the carrying out of its functions and duties.

The Council has used powers under RIPA for the investigation of Housing Benefit fraud, Training Standards offences, Anti-social Behaviour, appropriate environmental crime such as fly tipping and employee offences which are investigated by internal audit. All of these uses have previously been confirmed as appropriate by the OSC. Applications in all of these areas are subject to judicial approval and meet the serious crime threshold.

This is the first inspection since the Protection of Freedoms Act 2012, introduced judicial approval, i.e. by magistrates in respect of authorisations by the Council, and the serious crime threshold was introduced.

During the Inspection, HH Jones spoke to the Senior Responsible Officer, Jacqueline Collins, the RIPA Coordinator, Stuart Fletcher (Service Manager, Commercial and Governance, Legal Services) and 3 officers involved with RIPA operationally, namely Alan Pogorzelec (Business Regulation Manager), Lewis Coates (Community Protection Manager) and Shawn Senior (Fraud Investigation Manager).

The Inspector examined the relevant Policy and completed forms and found these to be largely commendable, although there was some room for improvement. The Inspector commented that the management of RIPA was appropriate but relevant processes could be improved by more robust procedures in respect of quality control.

In his report the Inspector stated that it was encouraging that the previous recommendations had been fully discharged and that the Council had developed an impressive training programme.

Although the Council does not currently use those parts of RIPA involving establishing covert relationship with suspects, it was recommended by the Inspector that the Council maintain and develop the ability to manage these situations and that the future training programme should reflect this. This was due to the likelihood in the future of using these technique for the investigation in particular involving social network sites, such as Trading Standards investigations involving illegally counterfeited goods.

The Inspector commented that the Council had established a good relationship with the magistrates' court in dealing with applications for judicial approval. Further the inspector found that the Council policy was fit for purpose and practical, and contained excellent prompts and guidance for officers. The Inspector was impressed that the improvements reported at the last inspection continue to be made.

The recommendations from the report were in respect of establishing a better “chasing up” procedure for the collation of forms from different services, to address weaknesses in the documentation through future training for investigating and authorising officers, to ensure all authorising officers attend RIPA corporate training courses, and to ensure that Councillors are kept to informed of RIPA activity.

These recommendations have been accepted, and acted upon by the Senior Responsible officer formulating an action plan to incorporate the following:

- i) A new “chasing up” procedure has been established and included in the RIPA policy.
- ii) Training has been organised which all appropriate officers will attend.
- iii) Councillors will be updated in terms of the number of applications, via the Deputy Leader’s meeting. In relation to the policy and appropriateness of Council RIPA operation generally, as recommended by the new Code of Practice, Councillors will be kept informed by means of an annual report to Cabinet.

8. Finance

Not applicable

9. Risks and Uncertainties

If surveillance is not carried out in accordance with the relevant legislation, the evidence gathered during the investigations may not be admissible in subsequent court proceedings.

Further, if the Council does not comply with the appropriate legislation when carrying out surveillance of this nature, public trust could be undermined as to the way in which the Council operates, and in particular, investigates offences.

If these powers are not used there is the possibility that serious criminal offences will not be properly investigated.

10. Policy and Performance Agenda Implications

RMBC Strategy to Reduce Crime & Disorder

11. Background Papers and Consultation

Office Surveillance Commissioners Report : 12th February 2014

Rotherham Borough Council RIPA Policy and Procedure : April 2013

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