

Corporate Governance and Standards Committee Report

Ward(s) affected: n/a

Report of Director of Environment

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Review of the Council's Covert Surveillance Policy

Executive Summary

Following a series of recommendations set out in an external audit report by the Investigatory Powers Commissioner's Office (IPCO) in August 2017, a number of amendments to the Council's Covert Surveillance Policy are proposed. A Senior Responsible Officer (SRO) and two Authorising Officers also need to be formally appointed.

Recommendation to Committee

That the Executive be commended:

- (1) to approve the amended Covert Surveillance Policy, as set out in Appendix 1 to this report; and
- (2) to appoint the Managing Director as the Senior Responsible Officer and the ICT Manager and Audit & Business Improvement Manager as the Council's official Authorising Officers for covert surveillance operations.

Reasons for Recommendations

The recommendations have been advised by IPCO, the regulatory body responsible for covert surveillance.

1. Purpose of Report

- 1.1 To approve the amendments to the Covert Surveillance Policy, to formally appoint a new Senior Responsible Officer (SRO) and to confirm appointments of the ICT Manager and Audit & Business Improvement Manager as the Council's official Authorising Officers for covert surveillance operations. These individuals will replace the Council's former Director of Resources who was previously both SRO and Authorising Officer.

2. Background

- 2.1 The Council's ability to conduct surveillance activity is largely regulated by the Regulation of Investigatory Powers Act 2000 (RIPA) and the associated Codes of Practice. In addition to the Act and codes, the Council has adopted a policy on covert surveillance. This report will propose the adoption of a revised version of that policy.
- 2.2 The Council's Covert Surveillance Policy was originally adopted in 2006 and has been updated on a number of occasions following periodic reviews and inspections by the Office of the Surveillance Commissioner (renamed the Investigatory Powers Commissioner's Office in 2017). The most recent comments from these inspections have informed the revised policy.

3. Equality and Diversity Implications

- 3.1 No Equality and Diversity Implications apply to this report.

4. Financial Implications

- 4.1 There are no financial implications to this report.

5. Legal Implications

- 5.1 Failure to observe the Regulation of Investigatory Powers Act (RIPA) could potentially constitute a breach of data protection and human rights legislation and could therefore result in significant reputational and/or financial damage to the Council.
- 5.2 Compliance with this policy and guidance document will help to avoid legal challenges to evidence gathered during the course of investigations under the Human Rights Act 1998 and Regulation of Investigatory Powers Act 2000.
- 5.3 Compliance will furthermore assist the Council in working, with its partners, towards the reduction of crime and disorder by ensuring evidence gathered by use of covert surveillance has been acquired legally and that the correct procedures have been followed, including authorisation by a justice of the peace or magistrate.

6. Human Resource Implications

- 6.1 The appointment of two new Authorising Officers will require additional duties for the individuals occupying these posts.

7. Summary of Actions

Recommendation	Notes
1. Amendments to RIPA policy - “Covert Surveillance Policy & Procedure” (CSPP) as recommended in IPCO audit report (August 2017)	
(i) Covert Human Intelligence Source (CHIS) risk assessment reference (para 8.5.3) – to include details of arrangements to provide for the safety and welfare of the CHIS	Additional wording added to draft policy (para 8.5.3) to take this into account
(ii) Policy to direct that arrangements on persons fulfilling role of handler/controller at time of CHIS authorisation to be made and detailed within a CHIS application - see RIPA S29(5)(a) & (b)	Wording added to draft policy – see para 12.3(o)
(iii) Para 11.3 (re what information should be present within the central record) should also list details of when and where a JP/magistrate has granted authorisation	Additional item, added to draft policy to reflect this – see para 11.3(i)
2. Additional section to be added to Policy to address the following points	
(i) Reference to accessing private data on internet & social media for investigative purposes – obligation to mandate limits to ensure that inadvertent surveillance cannot take place - i.e. what online investigative activity are GBC staff members permitted or prohibited from undertaking?	Relevant paragraph added to draft policy (see para 8.8)
(ii) Statement on GBC’s stance on requirement to seek authorisation for directed surveillance	Statement incorporated into para 1.3
(iii) Description of control measures regarding use of covert online identities – e.g. register of identities used and by whom; management processes to ensure Authorising Officer has oversight of extent of online surveillance	Incorporated into para 8.8
3. Operational Actions	
(i) GBC to appoint additional Authorising Officer (AO) to be trained to provide contingency to main AO	ICT Manager and Audit & Business Improvement Manager to be formally appointed as the Council’s official Authorising Officers; policy to be updated accordingly
(ii) Training to be organised for Service Leaders plus Directors	Information Rights Officer currently looking into training options
(iii) Para 5.1 to be updated to reference role of Senior Responsible Officer as being filled by Managing Director	Updated
(iv) Para 3.4 to be amended to include reference to Joint Enforcement Team (JET)	Amended

8. Conclusion

- 8.1 The revised policy and guidance should be approved in order to provide a suitable reference document in line with the inspector's recommendation and organisational changes which have taken place within the Council since the policy was last updated.

9. Appendices

Appendix 1: Covert Surveillance Policy and Procedure Note (v3 2018:1)