

# Item 6

## REPORT TO CABINET

14TH DECEMBER 2006

## REPORT OF SOLICITOR TO THE COUNCIL

### PORTFOLIO: STRATEGIC LEADERSHIP

### REGULATION OF INVESTIGATORY POWERS ACT 2000: GOING FORWARD: IMPLEMENTING IMPROVEMENTS

#### 1. SUMMARY

- 1.1 This report follows the report to Cabinet by the Council's Solicitor on the 5th October 2006 upon the key findings from the recent visit of the Office of Surveillance Commissioners.
- 1.2 This report makes recommendations for the implementation of the findings of the report of the Office of Surveillance Commissioners.
- 1.3 There is attached to this report, a copy of a revised corporate policy and procedures document on the Act, compiled by the Council's Solicitor, having regard to best practice in leading authorities in the field, to the recommendations of the Office of Surveillance Commissioners and in light of consultations which have taken place with key officers within the Council.
- 1.4 The new policy has implications for the Constitution as set out in this report.
- 1.5 The opportunity has also been taken to review training arrangements. The deployment of CCTV facilities across the range of enforcement activities of the Council will be dealt with in a separate report by the Director of Neighbourhood Services.

#### 2. RECOMMENDATIONS

- 2.1 That the Corporate Policy and Procedures document on the Regulation of Investigatory Powers Act 2000 be approved.
- 2.2 Cabinet resolves and recommends to Council as follows:-
  - (a) that all surveillance exercises, including covert surveillance be conducted by the Council in accordance with the terms of the Act and the Corporate Policy and Procedures document.
  - (b) that only the Chief Executive shall be permitted to authorise a surveillance exercise, under Section 29 of the Act, involving use of covert human intelligence sources (CHIS) or any staff investigations in consultation with the Solicitor to the Council, and

- (c) that this report be referred to all officers conducting enforcement functions which may carry out covert surveillance; that the policy be available on the Council's Intranet.
- (d) that the Solicitor to the Council be authorised to take all necessary steps to conclude satisfactory arrangements as regards corporate procedures and raising awareness of the Corporate Policy and Procedures document with appropriate officers in the Council.
- (e) to authorise the Solicitor to the Council to oversee training arrangements on RIPA, to suspend authorisation of officers where further training is required and to generally keep the policy document up to date and be responsible for regular review of the Central Register of Authorisations.
- (f) that the Solicitor to the Council be responsible for an annual review report to Cabinet in February each year upon the operating of the Act; that the Central Register of Authorisations be similarly reviewed on a quarterly basis.
- (g) that the effective date for the operation of the policy shall be 24th February 2007.
- (h) that the Head of Environmental Services and Head of Housing Management and Public Health Services Manager be authorising officers for the purposes of Section 28 of the Act in relation to their duties and functions.
- (i) that Council be recommended to approve all consequential changes to the Constitution (CE51/CE52 Officer Delegations refer).

### **3. DETAIL**

3.1 The inspection of the Office of Surveillance Commissioners on the 22nd June 2006 resulted in a number of key recommendations which have previously been notified to the Cabinet:

- That the Council's policy and updates should now be consolidated into a single policy and procedure document.
- That steps should be taken to review the sparing use of the legislation in terms of the Council's own enforcement activity and recognise the scope/potential for greater use in such activities of its CCTV operations. The Director of Neighbourhood Services will report separately on this aspect.
- That the Co-ordinating Group of Officers be reinstated.
- That training arrangements be reviewed with an emphasis on inhouse training.

3.2 Going forward in the light of these recommendations, the RIPA Co-ordination Working Group has since been established and has taken a number of steps:-

- Reviewed existing corporate policies and procedures in the light of best practice elsewhere, recommendations from the Council's Solicitor and views expressed by relevant officers.
- Agreed to meet quarterly to review the Council's approach to the implementation of the Act, to review training arrangements and to ensure that officers are fully updated as changes to the legislation arise.

3.3 Subject to approval of the arrangements in this report, it had been agreed that the first training programme will take place in mid-January 2007 and will serve to provide induction upon the terms of the new Corporate Policy Document and Procedures.

#### **4. CORPORATE POLICY AND RESOURCE IMPLICATIONS**

4.1 Ongoing training, review and additional working group activities of this kind are bound to have financial implications but are likely to be containable within existing budgets.

4.2 The work will further support and enhance the effectiveness of authorised officers under this legislation and serve, in particular, to support the Council's corporate objectives in the following areas:-

- Healthy Borough – Safeguarding Public Health
- Prosperous Borough – Tackling Disadvantage
- Attractive Borough:
  - Ensuring cleaner, greener environment;
  - Reducing waste
- Borough with Strong Communities – Promoting Safer Neighbourhoods

#### **5. CONSULTATION**

5.1 This report has been the subject of detailed consideration via the Council's RIPA Co-ordination Working Group of Officers and consultations have already taken place with the Office of Surveillance Commissioners following their review report.

#### **6. CONSTITUTIONAL IMPLICATIONS**

6.1 If accepted, a number of the recommendations have implications for the Constitution and it is recommended that the Standards Committee be appraised of those changes at its meeting on the 8th February 2007, and subject to such appraisal, be presented for approval to Council on the 23rd February 2007.

## 7. OTHER MATERIAL CONSIDERATIONS

- 7.1 None specifically, save that in terms of legal and risk management implications, these proposals, if accepted, will reduce the risk of legal challenge and increase the Council's effectiveness in carrying out all forms of enforcement activity.

**Contact Officer:** Dennis A. Hall  
**Telephone Number:** 01388 816166, Ext. 4268  
**E-mail address:** dahall@sedgefield.gov.uk

**Wards:** N/A

**Key Decision Validation:** N/A

### Background Papers

Report to Cabinet – RIPA 2000 – 20th June 2002  
Report to Council – RIPA 2000 – Amendments to the Constitution – 26th June 2002  
Report to Council – RIPA 2000 – 20th December 2002  
Report to Council – Review of Delegations – RIPA 2000 – 7th November 2003  
Report to Cabinet – Office of Surveillance Commissioners Report – 3rd June 2004  
Report to Cabinet – RIPA 2000 – 25th November 2004  
Regulation of Investigatory Powers Act 2000  
Acquisition and Disclosure of Communications Data: Revised Draft Code of Practice  
MO/SBC12 – RIPA 2000 – Inspection by the OSC  
MO/SBC13 – Increasing Awareness of the RIPA 2000  
MO/SBC14 – RIPA 2000 – Increasing Awareness  
MO/SBC16 – Monitoring of Employees' Communications in the Workplace – the effect of Data Protection Act, the RIPA and related legislation  
MO/SBC19 – Use of Authorisation Checklist  
MO/SBC24 – OSC Report and Update  
MO/SBC27 – Report on RIPA 2000 to Cabinet – 3rd June 2004  
MO/SBC34 – Review of Guidance: Questions and Answers for Local Authorities: OSC – Advice and Guidance – RIPA Q&A for Local Authorities  
MO/SBC35 – Covert Human Intelligence Code of Practice – Re-Issue  
MO/SBC36 – Re-Issue: RIPA Forms for Practitioners  
MO/SBC37 – RIPA: Singlepoint Guidance  
MO/SBC38 – RIPA Update New Regulations  
MO/SBC/39 – Home Office Guide CCTV  
Draft Code of Practice Part I Chapter II (Home Office)  
Lord Colville's Report : 22nd June 2006 : Restricted – not for publication.  
Report to Cabinet : RIPA 2000 : Update/Review – 5th October 2006

## Examination by Statutory Officers

	Yes	Not Applicable
1. The report has been examined by the Council's Head of the Paid Service or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Council's S.151 Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. The content has been examined by the Council's Monitoring Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. The report has been approved by Management Team	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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