

AGENDA
ITEM

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WEST DEVON BOROUGH COUNCIL

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NAME OF COMMITTEE	Overview & Scrutiny
DATE	20 September 2011
REPORT TITLE	Regulation of Investigatory Powers Act 2000: Report on Inspection and Authorisation
Report of	The Monitoring Officer
WARDS AFFECTED	All

Summary of report:

The Borough Council received a triennial inspection visit on 27 July. This report sets out the Inspector's findings and recommendations for action. The Monitoring Officer will orally update the Committee in exempt session regarding one application for authorisation for surveillance that has been granted since the Committee last met.

Financial implications:

There are no financial implications in this report that cannot be contained within existing budgets.

RECOMMENDATIONS:

Members agree that officers take the necessary steps to implement the recommendations of the Regulation of Investigatory Powers Act (RIPA) Inspector as contained in his report.

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1. BACKGROUND

1.1 In exercising its statutory obligations under the Regulation of Investigatory Powers Act 2000 (RIPA), the Borough Council is subject to the overview of the Office of the Surveillance Commissioners (OSC). Every three years or so, the Borough Council's arrangements for dealing with RIPA are inspected on the Commissioner's behalf and the Council is expected to implement the recommendations made.

- 1.2 The latest inspection was made by His Honour Judge N. Jones, a retired judge, on 27 July. It seems that the Office of the Surveillance Commissioners became interested in the shared service arrangements operating with South Hams DC and the inspection was of both Councils' arrangements. The Inspector's report is appended to this report at Appendix A.

2. ISSUES FOR CONSIDERATION

- 2.1 The Inspector made the following recommendations: that as the two Councils are sharing services with a common officer cadre, they should
- a. conduct RIPA authorisations and operation through a unified system
 - b. ensure the Senior Responsible Officer and RIPA Co-ordinator exercise robust oversight and quality control
 - c. appoint authorising officers who can authorise RIPA surveillance for either Council
 - d. provide training for authorising officers soon and follow it with refresher training about every 18 months
 - e. produce a unified policy and procedures document for the two Councils.
- 2.2 These recommendations are essentially for actions that would have been necessary in any event to unify and harmonise the processes for the operation of RIPA between the two Councils, but it was helpful to have the independent and experienced views of HHJ Jones to discuss the various aspects and advise exactly what should be done to achieve compliance with the authorities' statutory requirements.
- 2.3 The Monitoring Officer is now planning the process by which these steps should be achieved, notably harmonising the policies by taking the best of each - the new policy will be reported for adoption by Council in due course - and training for officers. The last (joint) training session was in February 2010 since when use of RIPA processes has been infrequent (see below). Regular updating is, therefore, essential and the Council will engage an external trainer to do that.

3. RIPA AUTHORISATIONS

- 3.1 There has been one request for authorisation of covert surveillance which was granted by the Head of Environmental Health & Housing, a duly authorised officer, regarding a benefits matter. The Monitoring Officer will report on this at the meeting but if either the surveillance or the investigation is then incomplete, it will have to be in exempt session in order not to prejudice the investigation of crime.

4. LEGAL IMPLICATIONS

- 4.1 The Council is required by law to abide by the requirements of RIPA and has been found by inspection to be doing so.
- 4.2 Other legal implications are covered in the report and the Appendix.

5. FINANCIAL IMPLICATIONS

- 5.1 The principal cost arising from this report will be the provision of refresher training for officers. The last time this was provided, training was cost-effectively carried out jointly with South Hams District Council and it would be proposed to do that again. There is provision in existing budgets to cover for staff training and so there are no additional financial implications.
- 5.2 Harmonisation of policies will be included in the workstream of the Legal team so again, there are no additional financial implications.

6. RISK MANAGEMENT

- 6.1 The risk management implications are:

Opportunities	Benefits
To harmonise policies and streamline operational practice	Harmonising policies will reduce the scope for errors, as will updated training
Issues/Obstacles/Threats	Control measures/mitigation
Failure to harmonise policies will result in adverse criticism from the OSC, might lead to poor practice and unreasonable or unreliable enforcement action	Provide a clear and unambiguous policy document and updating or refresher training for all operational staff working in this field

7. OTHER CONSIDERATIONS

Corporate priorities engaged:	Community Life
Statutory powers:	Regulation of Investigatory Powers Act 2000
Considerations of equality and human rights:	The human rights of persons under surveillance during the investigation of crime are engaged
Biodiversity considerations:	None are engaged in this report
Sustainability considerations:	None are engaged in this report
Crime and disorder implications:	Proper surveillance will lead to the obtaining of evidence suitable to be used in court in order to enforce various regulatory statutes. It is expected, however, that these powers will be used only rarely.
Background papers:	Report of the Surveillance Commissioner, dated 17 August 2011
Appendices attached:	A: Report of the Surveillance Commissioner, dated 17 August 2011