

# REPORT TO COMMUNITIES PDG

REPORT OF: LUCY YOULES – LEGAL SERVICES MANAGER

REPORT NO: LEG

DATE: 12<sup>TH</sup> AUGUST 2008

<b>TITLE:</b>	<b><u>POLICY, GUIDANCE AND CODES OF PRACTICE RELATING TO THE REGULATION OF INVESTIGATORY POWERS</u></b>
<b>FORWARD PLAN ITEM:</b>	YES
<b>DATE WHEN FIRST APPEARED IN FORWARD PLAN:</b>	1ST JULY 2008
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	<b>LOCAL CHOICE</b>

<b>COUNCIL AIMS/PORTFOLI O HOLDER NAME AND DESIGNATION:</b>		
<b>CORPORATE PRIORITY:</b>	CRIME AND DISORDER	
<b>CRIME AND DISORDER IMPLICATIONS:</b>	The policy is required to regulate covert investigations carried out to prevent and detect crime and disorder	
<b>FREEDOM OF INFORMATION ACT IMPLICATIONS:</b>	This report is available via the Local Democracy link on the Council's website <a href="http://www.southkesteven.gov.uk">www.southkesteven.gov.uk</a>	
<b>INITIAL EQUALITY IMPACT ASSESSMENT</b>	<b>Carried out and appended to report?</b>  <b>Yes</b>	<b>Full impact assessment required?</b>  <b>Yes</b>

<b>BACKGROUND PAPERS:</b>	RIPA policy - reviewed January 2005
---------------------------	-------------------------------------

## **1. INTRODUCTION**

**1.1** Since the introduction of the Regulation of Investigatory Powers Act (RIPA) in 2001, Local authorities have been authorized to carry out direct covert surveillance, use human intelligence sources and intercept communications data for the prevention and detection of crime and the prevention of disorder. During that time 46 applications for covert surveillance have been authorized, no applications for use of covert human intelligence sources or the interception of communications data have been received. Of those 46 authorisations:

- 22 were granted in respect of antisocial behaviour matters,
- 18 for waste/fly tipping offences
- 3 for environmental health enforcement
- 1 for planning enforcement
- 2 for drug related crime

**1.2** During that time, the Council has been inspected by the Office of the Surveillance Commissioner to ensure compliance with current legislation, regulations and guidance. As a result of an inspection in 2006, officers have been reviewing practices to establish best practice. This has led to the current review of the policy and codes of practice regulating the use of these powers, the introduction of guidance for officers. The draft policy is attached at Appendix A, the draft guidance is attached at Appendix B, the CCTV code of practice is attached at Appendix C and the covert surveillance code of practice is attached at Appendix D. The purpose of the policy and related papers is to assist the Council in complying with the legislation

**1.3** The Leader of the Council has recently received a letter from the then Chairman of the Local Government Association requesting members assist in ensuring the powers are used appropriately. A copy of this letter is attached at Appendix E

**1.4** It is proposed that a report be put to Cabinet as soon as practical subject to a full equality impact assessment to recommend approval of the new policy and guidance and adoption of the codes of practice as a matter of local choice in accordance with the Constitution.

## **2. RECOMMENDATIONS**

It is recommended the Communities PDG:

- consider the RIPA policy, the guidance notes for requesting and authorising officers papers before them by way of consultation and make suggestions for amendment and action as appropriate to assist the presentation of the policy and guidance to Cabinet for approval and adoption.
- Note and consider the codes of practice to be adopted by the Cabinet in association with the proposed policy.

### **3. DETAILS OF REPORT**

- 3.1 The proposed policy and guidance has been drafted in accordance with recommendations received from the Surveillance Commissioner. The policy has been produced with the assistance of Kirklees Borough Council which is recognised as a leading authority in this area of practice. The codes of practice are national codes and it is not proposed that local codes be adopted. CCTV has been working in line with the CCTV code of practice since its introduction in 2008. Any amendment to a national code of conduct will require the adoption of a local code of conduct.
- 3.2 Officers have been consulted on the policy, guidance and codes of practice at service manager, corporate head and strategic director level. Authorisation of applications to carry out covert surveillance and use of covert human intelligence sources are required at corporate head level in accordance with a recommendation from the surveillance commissioner inspector. Training on the policy, guidance and codes of practice for officers is anticipated over the next few months to ensure a comprehensive, consistent approach to applications and authorisations.
- 3.3 A central of requests, authorisations, cancellations and reviews has been developed within legal services for monitoring by the monitoring officer.
- 3.4 An initial equality impact assessment has been carried out which has revealed the need for a full impact assessment. Such assessment can take several months to complete. It is proposed that cabinet approval and adoption is obtained pending completion of the full equality impact assessment.

### **4. OTHER OPTIONS CONSIDERED AND ASSESSED**

The Council has a policy in place which required amendment following the surveillance commissioner's inspection. It would be inappropriate for the Council to operate under the current policy indefinitely.

There is no other option but to adopt a revised policy. The policy and guidance is proposed to assist officers and assure members and members of the public that the Council is using its powers proportionately and appropriately.

### **5. COMMENTS OF SECTION 151 OFFICER**

No specific financial comments to make.

### **6. COMMENTS OF MONITORING OFFICER**

The Monitoring Officers comments are included in the report

**7. COMMENTS OF OTHER RELEVANT SERVICE MANAGER**

**8. CONTACT OFFICER**

Lucy Youles – Legal Services manager (Monitoring Officer)

Tel: 01476 406105

e-mail: [l.youles@southkesteven.gov.uk](mailto:l.youles@southkesteven.gov.uk)