

WELWYN HATFIELD BOROUGH COUNCIL
STANDARDS COMMITTEE – 3 SEPTEMBER 2018
REPORT OF THE CORPORATE DIRECTOR (PUBLIC PROTECTION, PLANNING
AND GOVERNANCE)

SURVEILLANCE UPDATE 2018

1 Executive Summary

- 1.1 This report provides Members with an update on the Council’s policy and use of surveillance powers. Members are asked to note the use of surveillance powers and to agree the revised policy in appendix A.

2 Recommendation(s)

- 2.1 For Committee to note the use of surveillance powers, agree the revised policy in appendix A and to recommend to the Full Council that it is adopted and that the Constitution is updated to designate the Licensing Team Leader as an additional “Authorising Officer” for the purposes of the Regulation of Investigatory Powers Act (RIPA), as amended.

3 Explanation

- 3.1 The Council has powers to investigate a range of criminal offences and like all local authorities is able to utilise powers to undertake surveillance to assist with those investigations in certain prescribed circumstances.
- 3.2 The Regulation of Investigatory Powers Act (as amended) sets out the strict framework under which the council may use surveillance powers. The powers available to the council are:
- a) Directed covert surveillance which is not intrusive
 - b) Covert human intelligence sources
 - c) Communications data
- 3.3 The use of these powers is governed by the requirements of law and the council’s own policy. Powers cannot be used without the agreement of a designated “authorising officer” and the approval of a magistrate. In all cases the powers can only be used to investigate a specified offence and must be shown to be necessary and proportionate to the circumstances.
- 3.4 The Council Constitution designates the Senior Responsible Officer and the Authorising Officers and it is recommended that the Licensing Team Leader is now also designated as an “authorising officer”. It is also timely to make a number of updates to the policy document as shown in appendix A, in order to keep it up to date.
- 3.5 Committee are therefore asked to note the revisions to the policy, and agree that it is sent to Full Council to be adopted.

4 Legal Implication(s)

- 4.1 The Regulation of Investigatory Powers Act (RIPA), as amended by the Protection of Freedoms Act sets out the regulatory regime by which the council may use certain surveillance powers to investigate certain specified offences. There are strict controls in place and the council is unable to undertake any “covert surveillance” outside of this regime. Failure to comply with the legislation could result in legal challenge or challenge on the admissibility of evidence in Court.

5 Financial Implication(s)

- 5.1 None, budgets are in place for the provision of training for relevant officers

6 Risk Management Implications

- 6.1 The risks related to this proposal relate to legal challenge and reputation for example a court case collapsing owing to evidence collected through surveillance being ruled inadmissible. However there are strict controls in place to govern the approval of any surveillance authorisations and the council is not able to carry out covert surveillance outside of the RIPA regime. Additionally a staff training programme is in place and Heads of Service are asked to ensure relevant staff attend the training programme. RIPA is included as part of the management assurance statements which help comprise the annual governance statement and the council is periodically audited by the Office of Surveillance Commissioners. An assessment of risk is therefore considered as impact: high, probability: low

7 Security & Terrorism Implication(s)

- 7.1 The RIPA regime is used by the council to assist with the investigation of certain criminal offences. In addition the council will work as required with the police and other partners to facilitate the prevention, detection and investigation of crime.

8 Procurement Implication(s)

- 8.1 None

9 Climate Change Implication(s)

- 9.1 None

10 Health and wellbeing implications

None directly arising from the report

11 Communications and engagement

The nature of any covert surveillance undertaken by the council is by definition covert and not in the public domain. However for public confidence and transparency it is important that the council shares its adopted RIPA policy and once updated this policy will be republished on the council's webpage.

12 Link to Corporate Priorities

- 12.1 The subject of this report is linked to the Council's Corporate Priorities "our community", "our environment", "our housing" and "our council" and the statutory provisions under the Regulation of Investigatory Powers Act (RIPA), as amended

13 Equality and Diversity

- 13.1 An Equality Impact screening assessment has not been carried out in connection with the proposals that are set out in this report as RIPA is an enforcement tool and an EQIA was carried out in connection with recent revisions to the corporate enforcement policy.

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