

**CORPORATE GOVERNANCE COMMITTEE – 14 JUNE 2013****REPORT OF THE COUNTY SOLICITOR****REGULATION OF INVESTIGATORY POWERS ACT 2000****Purpose of the Report**

1. The purpose of this report is to provide the Committee with a quarterly report on the use of powers under the Regulation of Investigatory Powers Act 2000 (RIPA).

**Background**

2. At its meeting on 26 November 2012, the Committee agreed to receive quarterly reports on the use of RIPA powers. The relevant RIPA Code of Practice suggests that quarterly reports should be made to members as a means of ensuring that RIPA has been used consistently and the policy remains fit for purpose. The Code specifically states that elected members should not be involved in making decisions on specific authorisations.
3. With effect from 1 November 2012 changes were implemented governing how local authorities use RIPA. The amendments are contained within the Protection of Freedoms Act 2012. Essentially, the changes mean that local authority authorisations under RIPA for the use of particular covert techniques can only be given effect once an order approving the authorisation or notice has been granted by a Justice of the Peace (JP).
4. The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Amendment Order 2012 adds further restrictions on the use of RIPA. A local authority can now only grant an authorisation under RIPA for the use of directed surveillance where the local authority is investigating particular types of criminal offences. These are criminal offences and only those offences which attract a maximum custodial sentence of six months or more, or criminal offences relating to the underage sale of alcohol or tobacco.
5. At its meeting on 26 November 2012, the Committee noted that the new process had not yet been used by the County Council and it was therefore difficult at this early stage to assess the additional costs in both time and money of having to make an application to the Magistrates Court. The County Solicitor undertook to include in his next report to the Committee further information on this issue as officers began operating under the new system.

**Use of RIPA**

6. For the period from 1 January 2013 to the end of March 2013, authorising officers in the Chief Executive's Department received two applications for directed surveillance. The authorisations were required to conduct age restricted 'test purchases' of alcohol and tobacco products from retailers within the County. On both occasions Magistrates approved the application and were satisfied that the County Council's submissions met all the necessity and proportionately requirements.
7. Compared to previous reporting periods there is a reduction in the number of requests received to undertake surveillance. This is solely related to operational matters. For the avoidance of doubt, the judicial approval has had no impact on the decision to support applications when it is shown by the applicant that the surveillance is considered necessary and proportionate to further an investigation.
8. Authorising officers continue to ensure that all applicants receive the appropriate training sufficient for them to deal with the judicial process.
9. There are some additional resources required to prepare applications and attend hearings at the Magistrates' Court. It is estimated that each application is likely to add around three hours additional time in preparing for the judicial process and attending at court. At present this can be contained within the additional resources. Modifications to the Oracle based County Council RIPA application software now reflect the judicial approval changes and the system is fit for purpose.

**Recommendation**

10. The Committee is recommended to note the contents of this report and the use of RIPA powers for the period from January to December 2012.

**Equal Opportunities Implications**

None.

**Background papers**

Report to the Corporate Governance Committee on 26 November 2012

Report to the Cabinet on 18th December 2012– Regulation of Investigatory Powers Act 2000 (RIPA).

**Circulation under the local issues alert procedure**

None.

**Officer to contact**

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