
Report To:	Policy & Resources Committee	Date: 4 February 2014
Report By:	Acting Corporate Director Environment, Regeneration & Resources	Report No: FJ/LA/1128/14
Contact Officer:	Fraser Jarvie	Contact No: 01475 712121
Subject:	Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA)	

1.0 PURPOSE

1.1 The purpose of this report is to update Members on surveillance carried out by Inverclyde Council employees under the above Act and advise on the pending inspection visit by the Inspector appointed by the Office of Surveillance Commissioners.

2.0 SUMMARY

2.1 Until October 2000 the use of covert surveillance and covert human intelligence sources was not subject to statutory control in the UK. From that date arising from the Regulation of Investigatory Powers Act 2000 (RIPA) and the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA) there has been a legal framework which ensures that the use, deployment, duration and effectiveness of covert surveillance and the use of covert human intelligence sources are subject to an authorisation, review and cancellation procedure.

2.2 Inverclyde Council employees must comply with the Act and adhere to the authorisation procedures specified in the Council's policy and procedures for authorisation of covert surveillance and covert human intelligence sources approved by the Council following the introduction of the legislation.

2.3 Under the Council's authorisation process, applications for directed surveillance or the use or conduct of a source are authorised by a restricted number of authorising officers at a senior level. A central register of authorisations is maintained by the Head of Legal & Democratic Services who also carries out a gate-keeping role in connection with draft applications.

2.4 The Office of Surveillance Commissioners (OSC) provides independent oversight of the use of the powers contained within RIPSA. This oversight includes inspection visits by inspectors appointed by the OSC on a 3-yearly basis. The Council is to receive a visit in this connection on 27 February 2014. The inspecting officer, Graham Wright, will meet with senior officers of the Council as well as the Legal Services Manager responsible for the maintenance of the central record of authorisations. He will consider any previous recommendations. He will dip sample authorisations granted since the last inspection in 2011 and finally give feedback on the authorisations examined and make appropriate recommendations for any remedial steps he identifies.

2.5 It should be noted that the number of authorisations under the Act has dropped significantly since the last inspection, there being 2 authorisations in 2011, 2 in 2013 and only one in 2012. It is understood that this reduction from an average of 4 per annum is partly due to the services involved in combating anti-social behaviour, employing other more effective methods to obtain the information required or to deal

with the issues arising. The majority of services are not involved in covert surveillance as any required surveillance is carried out in public. Covert surveillance has since the introduction of the Act generally been carried out in the areas of anti-social behaviour or benefit fraud investigation.

3.0 RECOMMENDATIONS

- 3.1 That the Committee note the current position and the pending inspection by the OSC.
- 3.2 That the Committee note that reports on the application of and compliance with the Act will be submitted on an annual basis to the CMT.

Fraser Jarvie
Legal & Democratic Services

4.0 BACKGROUND

- 4.1 The use of surveillance to provide information is a valuable resource for the protection of the public and the maintenance of law and order. In order that local authorities and law enforcement agencies are able to discharge their responsibilities, use is made of unaided surveillance and surveillance devices. Where this surveillance is covert, i.e. the subject of the surveillance is unaware that it is taking place, then it must be authorised to ensure that it is lawful. CCTV systems in the main will not be subject to this procedure as they are “overt” forms of surveillance. However, where CCTV is used as part of a pre-planned operation of covert surveillance, then authorisation must be obtained.
- 4.2 The use of human beings to provide information (informants) is a valuable resource also for the protection of the public in the maintenance of law and order. These are generally described as “Covert Human Intelligence Sources” (CHIS). It should be noted however that the Council has not so far carried out surveillance in this manner since the introduction of the legislation.
- 4.3 Currently only the following officers are appointed by the Council to authorise surveillance under the Act (RIPSA):-
- John Mundell, Chief Executive
Elaine Paterson, Head of Legal & Democratic Services and Monitoring Officer
John Arthur, Head of Safer & Inclusive Communities
Albert Henderson, Corporate Director Education, Communities & OD
Alan Puckrin, Acting Corporate Director Environment, Regeneration & Resources
Jan Buchanan, Head of Finance
- 4.4 Five recommendations were made by the previous inspecting officer. Investigation has clarified however that River Clyde Homes is not an ALMO. It is an independent body and accordingly it is not intended to take any further steps in respect of the first recommendation.

Recommendations

- (1) Existing protocols with Arms Length Management Organisations (ALMOs) with responsibility for Council housing stock to be reviewed to ensure that any covert activity undertaken is notified to the Council for consideration.
- (2) A Standard Operating Procedure be included within the Council RIP(S)A Policy for the deployment of technical equipment for covert purposes.
- (3) A robust oversight process introduced with compliance reporting to the Council Executive.
- (4) Compulsory Authorising Officer training to be provided and formal training records introduced.
- (5) Operational protocol to be agreed with DWP for joint working and responsibility for RIP(S)A applications and authorisations.

5.0 PROGRESS

- 5.1 Steps are ongoing to address the above recommendations as per the action plan at Appendix 1.

6.0 FINANCIAL IMPLICATIONS

6.1 None

6.2 Personnel: None

6.3 Legal: None

6.4 Equality - There are no equality issues arising on this report

APPENDIX 1

Action Plan

Action	When to be Introduced	Responsible Officer
Recommendation 1 - Investigations have confirmed that RCH is not an ALMO, it is an independent body.	No further action required	Fraser Jarvie
Recommendation 2 - Policy being revised. Details of all equipment being deployed, including serial numbers are currently specified in any application for authorisation.	February 2014	Fraser Jarvie
Recommendation 3 - Report to Policy & Resources Committee and subsequently on an annual basis regarding compliance to the CMT. Head of Legal & Democratic Services to (i) act as "Gatekeeper" and review draft applications; (ii) meet regularly with authorising officers (twice yearly minimum) to review applications approved and provide feedback; (iii) meet regularly with officers responsible for making applications, for training purposes.	February 2014 January 2014	Fraser Jarvie
Recommendation 4 - Compulsory training for authorising officers to be provided by Head of Legal & Democratic Services as above and formal training records to be introduced.	January 2014	Fraser Jarvie
Recommendation 5 - Communications with DWP has identified that there is agreement regarding the authorisation of joint working and only one authorisation to include both organisations is required. (There have been no joint operations with the DWP in the last 3 years).	No further action required	Fraser Jarvie