

WYRE FOREST DISTRICT COUNCIL

CABINET
19 February 2009

The Amendment of the Council's Policy relating to the Regulation of Investigatory Powers Act 2000

OPEN	
COMMUNITY STRATEGY THEME	Communities that are safe, and feel safe
CORPORATE PLAN THEME:	A well run and responsive Council
CABINET MEMBER:	Councillor J-P Campion
RESPONSIBLE OFFICER:	Head of Legal and Democratic Services
CONTACT OFFICER:	Mary Morgan (ext 2705)
APPENDIX	Appendix 1 RIPA POLICY <i>The appendix to this report has been circulated electronically and a public inspection copy is available on request. (See front cover for details).</i>

1. PURPOSE OF REPORT

- 1.1 To confirm the Council will not generally conduct or use a Covert Human Intelligence Source (CHIS).
- 1.2 To consider amending the Council's policy relating to the Regulation of Investigatory Powers Act 2000 (RIPA) accordingly.

2. RECOMMENDATION

The Cabinet is asked to RECOMMEND to Council

- 2.1 **That it makes a decision that the Council will not generally conduct or use a Covert Human Intelligence Source, and that the Council's policy relating to the Regulation of Investigatory Powers Act be amended accordingly.**

3. BACKGROUND

- 3.1 The purpose of RIPA is to ensure that investigatory powers are used in accordance with Human Rights. RIPA aims to protect individual privacy rights while recognising that there are circumstances where covert investigations are necessary to protect the wider public interest.
- 3.2 Secondary legislation made under RIPA empowers the Council to conduct directed surveillance. This is covert surveillance undertaken for the purpose of a specific investigation or operation, and which is likely to result in the obtaining of information about a person's private or family life. It includes monitoring, observing, listening to and recording people, their movements and their conversations.

- 3.3 On 5th December 2001 the Council resolved to grant delegated authority to authorise, renew and cancel directed surveillance to various officers. This currently applies to the following officers:

Head of Financial Services
Financial Services Manager (Accountancy and Revenues)
Benefits Manager
Principal Auditor
Head of Planning, Health and Environment
Environmental Health Manager
Pollution Control Officer.

- 3.4 The amended policy provides, at paragraph 1.3, that if any of the above posts are subject to minor amendments in title, or their functions are transferred to a different post; the new postholder will have delegated authority in respect of directed surveillance in place of the officer specified in Paragraph 3.3 above.

4. KEY ISSUES

- 4.1 A CHIS is someone who establishes or maintains a personal or other relationship for the covert purpose of obtaining information. The conduct or use of a CHIS would, therefore, be a separate issue from directed surveillance and the Home Office recommends that a CHIS should only be undertaken where the single point of contact for the organisation (the SPOC) has received specialised training on CHIS. This is not the case with the Council's SPOC and so, at the date of writing this report, it is believed the Council has never used a CHIS. However, the inspector from the Office of Surveillance Commissioners (OSC) has recommended the policy relating to RIPA be amended to make it clear that the use of a CHIS is a separate issue and the Council will not generally do so. However, if in exceptional circumstances a decision were made to use a CHIS, this would require the prior authorisation of the Chief Executive or the Head of Legal and Democratic Services.

5. FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications in amending the Council's policy relating to RIPA.

6. LEGAL AND POLICY IMPLICATIONS

- 6.1 Once the amendments are made to the policy, it will be in accordance with the advice of the OSC.

RISK MANAGEMENT

- 7.1 The risks of failing to comply with RIPA will be reduced by the amendment of the policy because it will be clear a CHIS cannot be used without the prior consent of the Chief Executive or the Head of Legal and Democratic Services.

8. CONCLUSION

- 8.1 The Council is invited to amend the policy, to clarify (as suggested by the OSC) that the use of a CHIS is a separate issue and will only be undertaken in exceptional circumstances with the prior consent of the Chief Executive or the Head of Legal and Democratic Services.

7. CONSULTEES

The Leader of the Council.

9. BACKGROUND PAPERS

- 9.1 The Regulation of Investigatory Powers Act 2000
- 9.2 The Regulation of Investigatory Powers Act Codes of Practise

APPENDIX

Wyre Forest District Council Policy – Regulation of Investigatory Powers Act