

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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**REPORT TO:** Corporate Governance Committee 14<sup>th</sup> December 2012  
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### REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) QUARTERLY UPDATE ON USE OF RIPA

#### **Purpose**

1. To update the Committee on the new requirement for authorisations to be obtained from the Magistrates Court, the new directed surveillance crime threshold and the use of RIPA powers in the last quarter.

#### **Recommendations**

2. That Corporate Governance Committee:

**NOTE** the information contained in the report about the council's use of surveillance powers in the period October to December 2012.

#### **Background**

3. The Regulation of Investigatory Powers Act 2000 (RIPA) regulates covert investigations by the Council. It was introduced to ensure that individuals' rights are protected while also ensuring that law enforcement and security agencies have the powers they need to do their job effectively.
4. Following a Home Office Review into counter-terrorism and security powers the Protection of Freedoms Act 2012 was passed on 1<sup>st</sup> May 2012 with the effect that from 1<sup>st</sup> November 2012 all local authority surveillance authorised under RIPA have to be approved by a Magistrate. The role of the Magistrate is to ensure that the correct procedures have been followed and the relevant factors have been taken into account. The new provisions allow the Magistrate, on refusing an approval of an authorisation, to quash that authorisation.
5. The Council's RIPA policy was amended by the Committee at its September meeting in advance of the new legislation to ensure it complies with the law.
6. Guidance was issued by the Home Office in October on the operation of the judicial approval process and on the directed surveillance crime threshold. The new judicial approval mechanism is in addition to the existing Council authorisation processes and the Council will still be subject to the inspection regime of the independent RIPA oversight Commissioners.

#### **Directed Surveillance Crime Threshold**

7. The crime threshold, which also came into force on 1<sup>st</sup> November, means that local authorities cannot authorise directed surveillance for the purpose of preventing disorder unless this involves a criminal offence which carries a custodial sentence of

six months or more (the Serious Crime Test) or relates to the underage sale of alcohol or tobacco.

8. Local authorities may continue to authorise use of directed surveillance in more serious cases as long as the other tests are met - ie. that it is necessary and proportionate and where prior approval from a JP has been granted.
9. Local authorities may not authorise the use of directed surveillance under RIPA to investigate disorder that does not involve criminal offences or to investigate low-level offences including littering, dog control and fly-posting.

#### **The council's use of RIPA in Quarter 4 2012**

10. The information in the table below outlines the authorisations granted by the council during the fourth quarter of the year 2012.

Quarter	Directed surveillance	CHIS	Total	Purpose
October - December 2012	2	0	2	1)Benefit Fraud (joint investigation with DWP) – ongoing investigation in Willingham  2) Fly Tipping in Swavesey Ongoing investigation – authorisation successfully obtained from Cambridge Magistrates Court ( the first RIPA application in Cams)

#### **Implications**

11.

Financial	No implications
Legal	Authorisation of surveillance activity gives that surveillance “lawful authority” for the purposes of the European Convention on Human Rights
Staffing	No implications
Risk Management	See comments under “Legal”
Equality and Diversity	See comments under “Legal”
Equality Impact Assessment completed	No adverse impact
Climate Change	No implications

### **Effect on Strategic Aims**

13. None identified.

### **Conclusions / Summary**

14. This report updates the Committee on the Council's use of RIPA powers in the last quarter. The new procedures will affect the council's investigators and authorising officers by adding a further level of scrutiny of its authorisation forms. The Council has successfully obtained its first authorisation from the Magistrates Court with no areas of concern being raised.

**Background Papers:** the following background papers were used in the preparation of this report:

The Protection of Freedoms Act 2012

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