

**REPORT OF THE LEADER****THE REGULATION OF INVESTIGATORY POWERS ACT – OFFICE OF THE  
SURVEILLANCE COMMISSIONER INSPECTION****Purpose of the Report**

1. To advise Policy Committee of the outcome of a recent inspection by the Office of the Surveillance Commissioner, and to recommend an amendment to the Council's Regulation of Investigatory Powers Act and Surveillance Policy.

**Information and Advice**

2. The Regulation of Investigatory Powers Act 2000 (RIPA) gives the Council the power to undertake covert surveillance in relation to certain investigations. There is a strict authorisation process; applications are considered by senior officers before being considered by the Magistrate's Court for final approval.
3. The Office of the Surveillance Commissioner (OSC) is responsible for oversight of covert surveillance by public authorities. The Council is required to report annually on its use of RIPA powers, and is inspected by the OSC approximately every 3 years. The latest inspection was conducted in April 2016.
4. The feedback for the Council was very positive; the Inspector concluded that no formal recommendations for improvement were necessary.
5. The report stated that the Council is well performing with good Senior Responsible Officer and RIPA Co-Ordinating Officers, sound policy and procedures, a good training programme and appropriately trained officers.
6. The report contained some suggestions for improvements, but these were minor and considered not significant enough to warrant formal recommendations.

## **Proposed Policy Change**

7. The report also commented on the Council's policy statement in relation to covert human intelligence sources (CHIS), i.e. undercover officers establishing a relationship with a suspect in order to obtain information. The Council has taken a policy decision not to use CHIS. This is due to concerns about intrusion of privacy, and also the risks to those acting as CHIS that have to be managed with careful security and welfare arrangements.
8. However it was the Inspector's strong view that the Council is vested with the statutory power to use CHIS and should not restrict its use of these powers. In light of the Inspector's comments, a minor policy amendment is proposed; to delete 'the Council has taken a policy decision not to use covert human intelligence sources'. Policy Committee is referred to the **Annex** to this report.
9. It is anticipated that in practice CHIS powers will rarely, if ever, be exercised. If there ever is such a requirement Group Leaders will be informed. Additionally, safeguards are in place to ensure appropriate use of CHIS. Legal advice must be sought where use of CHIS is proposed, and the strict authorisation process described in paragraph 2 of this report must be followed.

## **Other Options Considered**

10. For the Council's Policy to remain unchanged. However it is considered appropriate to make the proposed amendments as the issue was raised by the OSC and because the Council's procedures ensure there are appropriate safeguards in relation to the use of CHIS.

## **Reason/s for Recommendation/s**

11. To ensure the Council is able to exercise its statutory powers in relation to RIPA where it is necessary and proportionate to do so.

## **Statutory and Policy Implications**

12. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, sustainability and the environment and ways of working and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

## **Crime and Disorder Implications**

Use of surveillance can assist the Council in relation to the reduction of crime in Nottinghamshire.

## **Human Rights Implications**

Every authorisation for surveillance requires consideration of human rights including the right to privacy and the right to a fair trial. The rights of people under surveillance need to be balanced against public safety and the prevention of crime. This is why every authorisation has to clearly set out why the surveillance is considered necessary and proportionate in the circumstances.

## **RECOMMENDATION/S**

- 1) To note the positive outcome of the recent inspection by the Office of the Surveillance Commissioner.
- 2) To approve the revised RIPA Policy attached in the Annex to this report.

**Councillor Alan Rhodes**  
**Leader of the County Council**

### **For any enquiries about this report please contact:**

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### **Constitutional Comments (SMG 24/08/2016)**

13. The proposals set out in this report fall within the remit of the Policy Committee.

### **Financial Comments (SES 30/08/16)**

14. There are no specific financial implications arising directly from this report.

### **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- Office of Surveillance Commissioners Inspection Report Nottinghamshire County Council dated 26 April 2016

### **Electoral Division(s) and Member(s) Affected**

- All