



AUDIT COMMITTEE - 12TH DECEMBER 2012

SUBJECT: REGULATION OF INVESTIGATORY POWERS ACT 2000 – AMENDMENTS

REPORT BY: DEPUTY CHIEF EXECUTIVE

1. PURPOSE OF REPORT

- 1.1 To advise members of the amendments made by Section 37 and Section 38 of the Protections of Freedoms Act 2012 and the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012 [SI 2012/1500] which requires the Regulation of Investigatory Powers Act 2000 Policy and Procedure Notes to be amended.

2. SUMMARY

- 2.1 The Council is under an obligation to comply with legislative requirements and is subject to the provisions of the Regulation of Investigatory Powers Act 2000, Protection of Freedoms Act 2012, and the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012 [SI 2012/1500].

3. THE REPORT

- 3.1 The Regulation of Investigatory Powers Act 2000 (RIPA) sets out strict controls for public authorities wishing to carry out covert surveillance of individual members of the public as part of their exercise of their statutory functions. In addition to the Act, advice and guidance is found within the codes of Practice issued by the Home Office.

- 3.2 Local authorities from 1st November 2012 will only be able to authorise the use of directed surveillance under RIPA to prevent or detect criminal offences that are either punishable, whether on summary conviction or indictment, by a maximum term of at least 6 months imprisonment or an offence under -

Section 146 Licensing Act 2003 (sale of alcohol to children)

Section 147 Licensing Act 2003 (allow sale of alcohol to children)

Section 147A 2003 (persistently selling alcohol to children)

Section 7 Children and Young Persons Act 1933 (sale of tobacco, etc, to persons under 18)

- 3.3 Directed surveillance cannot be authorised for preventing crime and disorder unless this involves a criminal offence(s) punishable (whether on summary conviction or indictment) by a maximum term of at least 6 months imprisonment.

- 3.4 Local authorities from 1st November 2012 will have to obtain an order approving the grant or renewal of an authorisation from a Justice of the Peace (a District Judge or Lay Magistrate) at the Magistrates Court for Directed Surveillance, Covert Human Intelligence Source (CHIS) and Communication Data (CD).

- 3.5 The new judicial approval mechanism is in addition to the existing authorisation process under RIPA. The current local authority process of assessing necessity and proportionality, completing the RIPA authorisation/application form and seeking approval from an authorising officer will remain the same.
- 3.6 The hearing will be in private and heard by a single Justice of the Peace who will read and consider the RIPA authorisation and the judicial application/order form. It is envisaged that the case investigator will be the best person to attend the hearing and answer any question that the Justice of the Peace may have on the policy and practice of conducting covert operations and details of the case itself.
- 3.7 The Home Office has recently published guidance to local authorities in England and Wales on the judicial approval process for RIPA and the crime threshold for directed surveillance.
- 3.8 The Authority has a corporate policy, which provides guidance on how surveillance should be used by relevant officers, which has been amended to reflect the changes introduced by the legislation. The policy has been placed in the Members library.

4. EQUALITIES IMPLICATIONS

- 4.1 None arising under this Report.

5. FINANCIAL IMPLICATIONS

- 5.1 None

6. PERSONNEL IMPLICATIONS

- 6.1 None

7. CONSULTATIONS

- 7.1 None, as Report reflects changes that must be implemented to comply with new statutory requirements.

8. RECOMMENDATIONS

- 8.1 It is recommended that the contents of this Report be noted.

9. REASONS FOR THE RECOMMENDATIONS

- 9.1 To ensure compliance with statutory requirements.

10. STATUTORY POWER

- 10.1 Regulation of Investigatory Powers Act 2000 and Regulations made under the Act, and The Protection of Freedoms Act 2012.

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A copy of the Caerphilly County Borough Council Regulation of Investigatory Powers Act 2000 Policy and Procedure Notes is available in the members library