

PART A

Report to: Audit Committee
Date of meeting: 10 January 2013
Report of: Head of Legal and Property Services
Title: RIPA

1.0 **SUMMARY**

1.1 The Protection of Freedoms Act 2012 introduced changes to RIPA (the Regulation of Investigatory Powers Act) with effect from 1 November 2012. This report informs members of those changes and seeks approval to use NAFN (National Anti Fraud Network) as SPOC (single point of contact) for communications data requests.

2.0 **RECOMMENDATIONS**

2.1 That the committee notes the changes made by the Protection of Freedoms Act 2012

2.2 That the Council uses NAFN as SPOC for communications data requests.

2.3 That the following posts are authorised to apply to the magistrates court to seek the necessary approvals for surveillance and communications Data:

Managing Director
Head of Strategic Finance
Executive Director
Head of Environmental Services
Head of Finance Shared Services
Licensing Manager
Fraud Manager
Senior Fraud Investigator
Licensing Enforcement Officer
Enforcement Officer
Anti Social Behaviour Co Ordinator

Contact Officer:

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Report approved by: Managing Director

3.0 DETAILED PROPOSAL

- 3.1 The Protection of Freedoms Act 2012 and RIPA (Directed Surveillance and Covert Human Intelligence Sources)(Amendment) Order 2012 came into effect on 1 November 2012. The Act and regulations made a number of changes to the Council's powers to undertake surveillance using RIPA
- 3.2 From 1 November 2012 the council has not been able to use RIPA to investigate matters relating to anti social behaviour and can only carry out covert directed surveillance if the criminal offence under investigation is punishable by at least 6 months imprisonment, or where an offence is thought to have been committed under Sections 146, 147 or 147A of the Licensing Act 2003 for under age sales of alcohol, and the offence of under age sales of tobacco.
- 3.3 In addition the use of directed surveillance and/or the acquisition of communications data using RIPA now needs to be authorised by a Justice of the Peace before it can take effect.
- 3.4 All officers who use RIPA have been informed of these changes and the council's policy on the use of RIPA has been amended accordingly. The Council doe need to authorise post holder to apply to the Magistrates Court for approvals to use directed surveillance and communications data under section 223 of the Local Government Act 1972 as these are court proceedings. The post holders listed in the recommendation are those either authorised to approve the use of RIPA powers or those seeking to exercise them and it is recommended that they all be authorised.
- 3.5 RIPA allows the council to acquire communications data where it is to investigate any of the matters referred to in paragraph 3.2 above. To date the council has not made use of it. In order to make use of it, if required, the Council needs to have a dedicated SPOC or single point of contact. The Council subscribes to the National Anti Fraud Network (NAFN) and they provide a legally compliant RIPA telecommunications service. All NAFN intelligence officers are accredited SPOCS under RIPA. They ensure requests are legally compliant and conform to codes of practice. Officers recommend that the council makes use of this service rather than have to train officers internally to be a SPOC. The council still needs to have it's own designated person for communications data and this will be the Head of Finance for Shared Services. He is already the designated person for Three Rivers and oversees the shared service fraud team, who are the team most likely to need to use these powers. The Head of Legal and Property will be the Senior Reporting Officer.

4.0 IMPLICATIONS

4.1 Financial

- 4.1.1 The Head of Strategic Finance comments that any expenditures incurred in accessing outside agencies can be contained within existing budgets.

4.2 **Legal Issues** (Monitoring Officer)

4.2.1 The Head of Legal and Property Services comments that the legal implications are contained within the body of the report.

4.3 **Equalities**

4.3.1 The council is required to follow the law in undertaking covert surveillance activities.

4.4 **Potential Risks**

4.4.1 None apparent

4.5 **Staffing**

4.5.1 Using NAFN for communications data will support internal staff resources

Background papers

No papers were used in the preparation of this report.

File Reference

- None