

HAVANT BOROUGH COUNCIL

Governance and Audit Committee

Changes to Corporate Surveillance Policy and Procedure

Report by Senior Lawyer (Contentious)

FOR DECISION

Cabinet Lead: Councillor Branson

Key Decision: No

1.0 Purpose of Report

The Council's Governance and Audit Committee is requested to formally review the Council's Corporate Surveillance Policy.

2.0 Recommendation

That: the amended Corporate Surveillance Policy be adopted by the Council.

3.0 Summary

Changes in legislation and best practice have necessitated changes to be made to the Council's Corporate Surveillance Policy, which concerns covert surveillance undertaken by the Council in accordance with the Regulation of Investigatory Powers Act 2000 (RIPA). The Council's Constitution requires the Governance and Audit Committee to formally review the Policy.

4.0 Subject of Report

In 2012 the Regulation of Investigatory Powers Act 2000 was amended in two significant ways:

1. In order to carry out covert surveillance authorisation is now required to be obtained from the Magistrates' Court following provisional authorisation by duly authorised Council Officers;
2. Authorisation under the Regulation of Investigatory Powers Act 2000 is now only permitted if the purpose of the surveillance is the prevention or detection of crime(s) punishable by 6 months imprisonment or more, or relates to the sale of alcohol or tobacco to underage persons.

These changes have resulted in a decreased number of authorisations being sought by Council Officers carrying out their duties. . In Havant, there has only

been one authorisation to carry out covert surveillance in the last 3 years and this was prior to the changes set out above.

As a result of the legislative changes, it is necessary to review and update the Council's Corporate Surveillance Policy.

The Council's use of the Regulation of Investigatory Powers Act 2000 is monitored by the Office of Surveillance Commissioners, which undertakes an inspection of the Council every three years. At the last such inspection in 2011 the Inspector recommended (among other things) that the Council should review example RIPA policies from neighbouring Councils as it was thought sensible to have a generic RIPA policy as this would be an efficiency saving and enable corporate review by the JMT. This has been carried out and the proposed policy is now before you. The next inspection is due on 3rd September 2014.

The proposed Corporate Surveillance Policy and Procedure is attached.

5.0 Implications

5.1 Resources:

There is no unbudgeted financial resource requirement.

5.2 Legal

The policy updates the Council's approach to the amended RIPA.

5.3 Strategy:

An updated policy supports the Council's ambitions to provide excellent public services, by providing an up-to-date governance framework within which to conduct surveillance.

5.4 Risks: (Environmental, Health & Safety and Customer Access Impact Assessment)

If the policy is not changed, the Office of Surveillance Commissioners have the power to revoke the Council's powers to authorise covert surveillance. This may have an adverse impact on the ability of Officers to carry out their duties.

5.5 Communications:

No external communications are required as a result of this change of policy. However, RIPA has, at times, attracted national controversy, and public messages will need to be managed at the time of the publication of public reports on this.

5.6 For the Community:

This will ensure that any covert surveillance is carried out in accordance with the law and with best practice thereby not infringing Human Right legislation.

6.0 Consultation

Tom Horwood, Executive Director
Solicitor to the Council
Executive Head (Governance and Logistics)
Finance – Jane Eaton

6.1 Appendices: Amended Corporate Surveillance Policy and Procedure including Appendices

Background Papers:

Agreed and signed off by:

Legal Services: 15.07.14

Executive Head of Governance & Logistics: 15.07.14

Relevant Executive Head: 15.07.14

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