



FULL COUNCIL REPORT

Date Written	18 th March 2016
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Service Area	Legal & Democratic Services
Committee Division	Strategic
Exempt/Non Exempt	Non Exempt
Committee Date	20 th April 2016

To: Chair, Ladies and Gentlemen

Regulation of Investigatory Powers Act 2000

1.0 SUMMARY OF THE REPORT

1.1 To update and report upon the Council's application of its powers under the Regulation of Investigatory Powers Act 2000.

2.0 RECOMMENDATION(S) that

2.1 The Council's use of its powers under the Regulation of Investigatory Powers Act for the period 1st April 2014 to the 31st March 2016 be noted.

3.0 INTRODUCTION AND BACKGROUND

3.1 This report provides information on the Council's use of the Regulation of Investigatory Powers Act 2000 (RIPA) for Directed Covert Surveillance, and Covert Human Intelligence Sources (CHIS) during the period 1st April 2014 to the 31st March 2016.

3.2 The Report also details the Council's use of its powers under RIPA to intercept communications data for the period for the same period.

4.0 THE COUNCIL'S USE OF COVERT SURVEILLANCE AND COVERT HUMAN INTELLIGENCE SOURCES

- 4.1 The figures are broken down into two periods namely 1st April 2014 to the 31st March 2015 and the following year namely 1st April 2015 to the 31st March 2016 – reports for both years have been made to the Surveillance Commissioner.

DIRECTED SURVEILLANCE

- 4.2 For the period 1st April 2014 to the 31st March 2015, the Council obtained 7 RIPA Directed Surveillance authorisations. All authorisations were presented to the Magistrates Court for judicial approval and all were granted by the Magistrates.
- 4.3 Directed surveillance was undertaken by two Council Departments. They were (1) Benefit Fraud who undertook surveillance on 6 occasions with the aim of establishing whether or not claimants were falsely claiming or had previously falsely claimed Housing Benefit and/or Council Tax Benefit or was or had falsely receiving payment under the Council Tax Reduction Scheme and (2) Trading Standards who undertook surveillance on 1 occasion during an investigation into illicit tobacco.
- 4.4 For the period 1st April 2015 to the 31st March 2016, the Council obtained 4 RIPA Directed Surveillance authorisations. All authorisations were presented to the Magistrates Court for judicial approval and all were granted by the Magistrates.
- 4.5 Directed surveillance was undertaken by two Council Departments. They were (1) Benefit Fraud who undertook surveillance on 2 occasions with the aim of establishing whether or not claimants were falsely claiming or had previously falsely claimed Housing Benefit and/or Council Tax Benefit or were falsely receiving payment under the Council Tax Reduction Scheme and (2) Trading Standards who undertook surveillance on 2 occasions during investigations into counterfeit tobacco goods.

COVERT HUMAN INTELLIGENCE

- 4.6 Between 1st April 2014 and the 31st March 2015 the Council authorised the use of CHIS (Covert Human Intelligence Source) on 13 occasions. CHIS were used by the Trading Standards Department during investigations into counterfeit goods in particular counterfeit goods that were being advertised on line.
- 4.7 Between 1st April 2015 and the 31st March 2016 the Council authorised the use of CHIS (Covert Human Intelligence Source) on 5 occasions. CHIS were used by the Trading Standards Department during investigations into counterfeit goods in particular counterfeit goods that were being advertised on line via eBay and facebook and from the sellers home address.
- 4.8 The authorisations for directed surveillance and CHIS were issued in accordance with the Council's current policy adopted in February 2014 and procedure relating to the use of RIPA, and in line with Home Office Codes of Practice. All authorisations are for a set period and are reviewed and cancelled at the conclusion of the authorised surveillance. The Council's RIPA Policy is available on the Council's

Website and the Codes of Practice are set out on the Home Office website. All Council RIPA use is managed by the Council's legal department using the Council's bespoke RIPA software.

- 4.9 The Council's use of RIPA is also subject to scrutiny by the Office of Surveillance Commissioners.

5.0 THE COUNCIL'S USE OF RIPA TO INTERCEPT COMMUNICATIONS DATA

- 5.1 This information is reported on a yearly basis but between different dates namely the 1st January to the 31st December.
- 5.2 Between the 1st January 2014 and the 31st December 2014 there were no Council applications to obtain communications data.
- 5.3 Between the 1st January 2015 and the 31st December 2015 there were two Council applications to obtain communications data. These applications related to investigations by the Trading Standards Department.
- 5.4 The process of authorisation to obtain communications data is different to the application process for Directed Surveillance and CHIS in that applications to intercept communications data are made by Council Officers but submitted to the National Anti Fraud network (NAFN) for their consideration and approval. NAFN provides a specialist service to local authorities with appropriate safeguards to ensure the credibility of the Council's use of RIPA.

6.0 THE USE OF RIPA TO COMBAT BENEFIT FRAUD

- 6.1 In January 2016, the investigation and prosecution of Benefit Fraud (save for offences relating to Council Tax Reduction) was transferred to the Department for Work & Pensions. At the same time the staff employed by the Council to carry out benefit fraud investigations were similarly transferred to the Department for Works & Pensions. This effectively means that the Council's use of RIPA will in future be significantly reduced. A decision with regard to how Council Tax Reduction fraud will be investigated and enforced and by whom has yet to be made and as such staff are yet to be trained in the necessary investigation/enforcement disciplines. As a consequence, until such steps have been carried out, the RIPA Policy will be amended to remove the Council's ability to apply for RIPA authorisation for directed surveillance to combat Council Tax Reduction fraud. A separate report with regard to this will be presented to Council.

7.0 FINANCIAL IMPLICATION(S)

- 7.1 There are no financial Implications associated with this report.

8.0 SINGLE INTEGRATED PLAN AND SUSTAINABILITY IMPACT SUMMARY

8.1 The Community Plan & Sustainability Impact Assessment has been completed and the proposals will have a positive impact on people in Merthyr Tydfil in particular contributing to Merthyr Tydfil becoming a safer and more sustainable place in which to live, work and play.

9.0 EQUALITY IMPACT ASSESSMENT

9.1 An Equality Impact Assessment (EqIA) form has been prepared for the purpose of this report. It has been found that a full assessment is not required at this time. The form can be accessed on the Council's website/intranet via the 'Equality Impact Assessment' link.

GARETH CHAPMAN
CHIEF EXECUTIVE

COUNCILLOR PHIL WILLIAMS
CABINET MEMBER FOR GOVERNANCE
AND CORPORATE SERVICES

BACKGROUND PAPERS		
Title of Document(s)	Document(s) Date	Document Location
Does the report contain any issue that may impact the Council's Constitution?		No

Consultation has been undertaken with the Corporate Management Team in respect of each proposal(s) and recommendation(s) set out in this report.