

To: Finance and Resources

On: 25 January 2017

Report by: Director of Finance and Resources

Heading: Inspection by Office of Surveillance Commissioners

1. Summary

The purpose of this report is to advise members of the outcome of the inspection by the Office of Surveillance Commissioners (“OSC”) of the Council’s covert surveillance activities and procedures in late 2016.

2. Recommendations

It is recommended that the Board note the positive outcome of the OSC inspection.

3. Background

- 3.1 Following the implementation of the Human Rights Act 1998 (“HRA”) in October 2000, the Regulation of Investigatory Powers (Scotland) Act 2000 (“RIPSA”) was enacted to create a legal framework, within which public authorities could continue to carry out covert investigations without breaching an individual’s human rights. As a result of HRA, the Council must afford everyone the right to respect for private and family life, including home and correspondence, in accordance with Article 8 of the European Convention on Human Rights (“ECHR”). RIPSA created a system of authorisations for various types of covert surveillance in recognition that, in certain

circumstances, it may be necessary for the Council to carry out covert surveillance. If RIPSAs are complied with, any interference with the right to privacy will be lawful. Providing the action taken is also necessary and proportionate, there will be no breach of HRA.

- 3.2 The system of authorisations under the 2000 Act was reported to the Policy and Resources Committee in November 2000 and the Council's Surveillance Policy was approved by the General Management Policy Board on 19th December 2001, revised by the General Management and Finance Policy Board in January 2008, January 2011 and further revised by Finance and Resources Policy Board in 2014 and 2016.
- 3.3 The Head of Corporate Governance maintains a central register of any such authorisations, which is open to inspection by the OSC, who have powers of inspection under RIPSAs. The Council has been inspected in 2002, 2007, 2010, 2013 and most recently, in 2016. The inspection consisted of a one day visit by an Assistant Surveillance Commissioner, who met with the Chief Executive, the Managing Solicitor (Information Governance), the Chief Auditor and officers from Services who have been, or could potentially become involved in covert investigations.
- 3.4 The report on the inspection was issued to the Chief Executive by Lord Judge, Chief Surveillance Commissioner. This confirms that the four recommendations from the 2013 inspection report have been discharged and that there is no requirement for any formal recommendations, further to this inspection. Various positive aspects of the Council's procedures are highlighted, including:-
- Commendation for the exceptional training programme in place and excellent levels of awareness amongst staff;
 - Completion of the Central Record to a very high standard;
 - Strong governance and quality assurance;
 - The commitment of the Chief Executive, Head of Corporate Governance and Managing Solicitor (Information Governance) to compliance and training;
 - A comprehensive Surveillance Policy and associated guidance of a particularly high standard and
 - An impressive and engaging group of officers who portrayed a very professional image of the Council.
- 3.5 The Chief Executive has responded to the Chief Surveillance Commissioner noting the contents of the report and confirming that this will be reported to Board. The relevant officers have been advised of the contents and will continue to work with the Managing Solicitor (Information Governance) to ensure continued good practice, as detailed in the report.

Implications of the Report

1. **Financial** - None.
2. **HR & Organisational Development** – None
3. **Community Planning** – None
4. **Legal** –The Council complies with the Regulation of Investigatory Powers (Scotland) Act 2000 and should continue to carry out covert surveillance activities in accordance with the Council policy on surveillance.;
5. **Property/Assets** - None
6. **Information Technology** - None
7. **Equality & Human Rights** -
 - (a) The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report because it is for noting only. If anything, the report impacts positively on human rights, as continued compliance with the RIPSAs procedures under inspection will ensure that there is no breach of the Human Rights Act 1998..
8. **Health & Safety** – None
9. **Procurement** –None
10. **Risk** - None
11. **Privacy Impact** - None.

List of Background Papers

OSC Inspection Report

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