

## **Breach Policy**

### **Purpose**

The Regulation of Investigatory Powers Act 2000 (RIPA) regulates the use of covert surveillance activities by Local Authorities. Special authorisation arrangements need to be put in place whenever the Local Authority considers commencing a covert surveillance or obtaining information by the use of informants or officers acting in an undercover capacity.

The purpose of this policy is to set out what action will be taken in the light of any breaches of RIPA, in order to ensure compliance with our legal and internal requirements, for good governance. This policy must be read in conjunction with the Council's RIPA policy and guidance.

Compliance with RIPA is monitored by the Office of Surveillance Commissioners, and could intensify where the Council fails to ensure good governance and remain compliant with RIPA legislation.

Local Authorities do operate covert activities in a number of key areas. Activities can include covert surveillance in relation to Internal Audit and Human Resources where fraud, deception or gross misconduct by staff might be suspected. The legal requirements are now supplemented by codes of practice issued by the Home Office for certain surveillance activities, (covert surveillance activity and covert human intelligence sources) breaches of which can be cited in Court as evidence of failure to abide by the requirements of RIPA. This may mean that the evidence obtained by that surveillance is excluded.

### **Who does this policy apply to?**

This policy applies to all officers of the Council who carry out surveillance, on behalf of the Council. Failure to comply with RIPA puts the Council at risk of legal challenge for breach of legislation.

### **Who reports breaches/potential breaches<sup>1</sup>?**

Everyone is entitled to raise concerns about whether there has been a breach of the RIPA. The County Solicitor or the Trading Standards & Community Safety Manager, must authorise and monitor all RIPA requests, and may highlight possible breaches of RIPA as a result of carrying out this monitoring and request further information from directorates to establish whether a breach has or may occur.

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<sup>1</sup> Reference is made to potential breaches because it will remain to be assessed whether an actual breach has taken place.

### **Who should breaches/potential breaches be reported to?**

In the first instance, potential breaches must be reported to the Trading Standards & Community Safety Manager, who will assess, in conjunction with County Solicitor where relevant, whether there has been a breach and, if so, the severity of the breach.

Where a breach is identified, this must be reported by the relevant service manager to their Director, for further investigation, in conjunction with advice from the County Solicitor.

**In all cases where an officer is in doubt whether an action might be in contravention of the RIP Act, advice should be sought from the Trading Standards and Community Safety Manager or Legal Services.**

### **What will the Director do?**

If after investigation, the Director believes that a breach may have occurred or gives rise to illegality or maladministration, by the taking of any appropriate steps or measures, will:

- remedy the breach if possible;
- take action to prevent further breaches;
- report to County Solicitor on action taken.

Any disputes as to the action which should be taken will be referred to the County Solicitor whose decision will be final.

**Responsible Officers:** County Solicitor/Monitoring Officer  
Trading Standards & Community Safety Manager

**Date:** May 2014

**Review Date:** May 2016