

Report

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Report to:	Corporate Resources Committee
Date of Meeting:	16 November 2005
Report by:	Executive Director (Corporate Resources)

Subject:	Regulation of Investigatory Powers (Scotland) Act 2000 – Outcome of Inspection and Proposed Changes to Procedures
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1 Purpose of Report

1.1 The purpose of the report is to:-

- ◆ request approval for changes to the Council's procedures in relation to the authorisation of covert surveillance
- ◆ authorise the Head of Legal Services to make such other amendments to the Council's Protocols as are necessary to implement recommendations made by an Inspector for the Office of the Surveillance Commissioner in August 2005

2 Recommendation(s)

2.1 The Committee is asked to approve the following recommendation(s):-

- (1) that the Council's authorisation procedures be amended as detailed in the report; and
- (2) that the Head of Legal Services be authorised to make such other amendments to the Council's Protocols and Procedures as are necessary to implement recommendations made by an Inspector for the Office of the Surveillance Commissioners in August 2005.

3 Background

3.1 The Council has in place procedures which must be followed by Officers to obtain authorisation to carry out Covert Surveillance on members of the public and employees. There are 2 Protocols covering:-

- Directed Surveillance - i.e. the obtaining of information by watching or monitoring covertly the actions of someone
- Covert Human Intelligence Sources (CHIS) - i.e. the obtaining of information by forming a relationship with the subject of the surveillance without he/she knowing that the information is being gathered (such as the use of undercover officers/ cultivating informers).

- 3.2 To ensure compliance with the legislation, the Council is periodically inspected by an Inspector from the Office of the Surveillance Commissioners. An inspection took place on 22 August 2005 and the report detailing the Inspector's findings has been received.
- 3.3 While the findings and recommendations were generally favourable, some additional recommendations were suggested to further improve existing procedures.

4 Key Issues and Recommendations

4.1 Authorisation Procedures

Issue

The Inspector identified that the content of applications from various Resources could be improved. At present quality control rests with the Resources/Services concerned, which has resulted in some inconsistencies across Resources/Services.

Recommendation

The Inspector has recommended that a more formal quality control mechanism be introduced. In future the proposal is that all applications for authorisation will be processed through Single Points of Contact in Legal Services before the applications are passed to the Authorising Officers in each Resource. Legal Services will ensure that there is sufficient information contained in the application before it is passed to the Authorising Officer for consideration. If there is not enough information, the application will be refused by the Single Points of Contact and cannot be passed to the Authorising Officer.

4.2 Authorising Officers for CHIS operations

Issue

The Council has designated officers to deal with applications for authorisations to carry out Covert Surveillance by the use of Covert Human Intelligence Sources (CHIS) based on guidance from a previous inspection of the Council. These Officers are generally Head of Service level and above, although some Resources have certain Managers empowered to deal with authorisations. These Authorising Officers are the same for both Directed Surveillance and CHIS Operations. The Inspector's view is that there should be a review of Authorising Officers for CHIS Operations because of the sensitivity of such Covert Surveillance.

Recommendation

Only the Chief Executive or, in his absence, an Executive Director be delegated the authority to deal with applications for the use of CHIS to ensure confidentiality in dealing with such issues.

4.3 Miscellaneous Issues/Recommendations

The Inspector made some recommendations, which are either covered by Delegated Powers to the Chief Executive or require minor amendments to the existing Protocols. Some further clarification is being sought from the Inspector. It is suggested that the Chief Executive and/or Head of Legal Services be authorised to make such further minor amendments to the Procedures and Protocols as are required after the Inspector has clarified these miscellaneous minor recommendations.

5 Financial Implications

5.1 None.

6 Other Implications

6.1 None.

7 Consultation

7.1 None.

Alan Cuthbertson
Executive Director (Corporate Resources)

3 October 2005

Link(s) to Council Objectives

- Living in the Community
- Supporting the Community

Previous References

Corporate Resources Committee - 6 March 2002

Corporate Resources Committee - 11 February 2004

List of Background Papers

Report – Office of the Surveillance Commissioners dated 26th August 2005

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

Bill Dunn, Legal Services Adviser, Core Legal Services

Ext: 4564 (Tel:01698 454564)

E-mail: bill.dunn@southlanarkshire.gov.uk