
REPORTS FROM THE EXECUTIVE AND COMMITTEES TO COUNCIL

3 REPORT OF THE STANDARDS COMMITTEE

The Localism Bill and Development of a Replacement Standards Framework

- 3.1 This item of business was referred by the Standards Committee on 6 July 2011 to Full Council with a recommendation relating to participation in a partnership project to develop a model standards framework following the abolition of the current statutory Standards regime. An extract of the key elements of the report of the Head of Legal, Estates and Member Services to the Committee is attached at Appendix 1.
- 3.2 The Standards Committee noted that the Localism Bill had completed its second reading in the House of Lords and that the current thinking of the Lords is that there ought to be a structure in place that obliges Councils to adopt a Code of Conduct and retain a Standards Committee. It was further noted that, until the new legislation comes into effect, the current Standards regime will continue to apply.
- 3.3 An advantage of a common approach is the opportunity for greater certainty and efficiencies in authorities that have geographical proximity. Draft documentation produced by the partnership would be the subject of detailed consultation but it would be a matter for each individual Council to determine the nature and extent of the arrangements it wished to adopt. A joint approach would facilitate the task and could provide opportunities for joint working if there was commonality in approach. Whilst it had been recognised in the parliamentary debates that the role of Independent Members was of value in dealing with matters of discipline and regulatory arrangements, it would be a matter for individual Councils to determine their involvement, subject to any changes in the proposed legislation.
- 3.4 With regard to Parish/Town Councils' apparent removal from the framework and regulation, it was noted that it would remain open for them to participate in arrangements put in place by the District Council and that they would be consulted on any proposals for a new framework.
- 3.5 It is proposed that Council **RESOLVES** to participate in the partnership project to develop a model standards framework, following the abolition of the current statutory Standards Regime, for consideration and consultation with other stakeholders including Parish and Town Councils. (HLEMS)

4 REPORT OF THE REVIEW COMMITTEE**Regulation of Investigatory Powers Act 2000 (RIPA)**

- 3.1 This item of business was referred by the Review Committee on 12 July 2011 to Full Council with recommendations relating to RIPA. An extract of the key elements of the report of the Head of Legal, Estates and Member Services to the Committee is attached at Appendix 2.
- 3.2 During discussion it was noted that, in the event that there is a marked increase in RIPA cases, the frequency of reporting to the Committee could be reviewed. It was also noted that surveillance under RIPA was only ever used by the Council as a last resort where the evidence required could not be obtained by other means.
- 3.3 It is proposed that Council **RESOLVES** that the Office of Surveillance Commissioner's inspection report and the quarterly authorisation statistics be noted and that future reports on RIPA authorisations be considered by the Review Committee on an annual basis when the annual review of the policy takes place. (HLEMS)

If you would like this report in large print, Braille or another language please contact 01702 318111.

THE LOCALISM BILL AND DEVELOPMENT OF A REPLACEMENT STANDARDS FRAMEWORK

1 SUMMARY

- 1.1 The report updates the Committee on progress to develop arrangements for a standards framework following the abolition of the current statutory Standards Regime, as proposed in the Localism Bill.

2 INTRODUCTION

- 2.1 The present Standards Regime is viewed by the Government as contrary to the principles of localism and its abolition is intended to provide Local Authorities with the power to put in place their own arrangements to maintain high standards of conduct.
- 2.2 The Committee at its last meeting on 7 April 2011 considered the implications of the Bill and its recommendation that a local code of conduct together with procedures for dealing with complaints be developed was agreed by Council (Minute 120/11 refers).

3 SUMMARY OF PROPOSED CHANGES

- 3.1 The Localism Bill abolishes the current standards regime, seeks to clarify the law on predetermination, and introduces a new statutory requirement to register and declare certain personal interests. This statutory requirement is reinforced by a new criminal offence for deliberate failure to declare interests for personal or financial gain.
- 3.2 Authorities will be free to choose whether to adopt a code of conduct, have a Standards Committee and operate a system of regulation. The Authority's powers to deal with transgressions, however, will be reduced and the power to suspend a Member from office for a breach of the code has been removed. Notwithstanding this, there remains a legal obligation to maintain high standards of conduct.
- 3.3 The Bill is currently at its second reading and it is anticipated that it will receive Royal assent in late 2011, with implementation on a fixed date, which is likely to be 2 months after the Bill is enacted. Until such time, the current statutory standards regime remains, and Standards Committees and Monitoring Officers are obliged to ensure the system continues to operate.

4 DEVELOPMENT OF REPLACEMENT STANDARDS FRAMEWORK

- 4.1 A project has been initiated by the Public Law Partnership, which comprises Authorities from Essex, Suffolk and Hertfordshire, to design a replacement framework to take over once the current arrangements are abolished. It is hoped that this will enable a consistent approach across Essex Authorities and Partnership members and will achieve savings through the development

of common precedents, procedures and practices, and allow for sharing of work, for example investigation of complaints and joint training.

4.2 The proposed new framework comprises three core components:-

- a) A Code of Conduct.
- b) A system of regulation and enforcement allowing for efficient procedures to deal with complaints and any subsequent appeals.
- c) Model Terms of Reference for the Standards Committee.

4.3 Work has commenced on the production of a draft set of documents with the aim of simplifying the current procedures and making the regulation of the system more straightforward. The draft documentation will be subject to extensive consultation and it is expected to be available in autumn for initial consideration and discussion.

5 RISK IMPLICATIONS

5.1 There is reputational risk to the Council if adequate arrangements are not in place to maintain standards of conduct and deal with complaints and allegations of impropriety.

6 LEGAL IMPLICATIONS

6.1 The Council is under a legal obligation to meet the requirements of the Localism Bill, once the Bill becomes law.

7 PARISH IMPLICATIONS

7.1 The Council will no longer be responsible for ethical governance of Parish and Town Councils.

8 ALTERNATIVE OPTIONS CONSIDERED

8.1 The Council is not obliged to have any particular standards regime in place and can instead choose to rely on common and criminal law provisions, although this is unlikely to provide the same degree of public confidence and transparency as afforded by a clear and effective standards regime.

REGULATION OF INVESTIGATORY POWERS ACT 2000 (‘RIPA’)

1 SUMMARY

- 1.1 On the 8 March 2011 the Review Committee received a report which summarised the Council’s use of RIPA powers and made recommendations with respect to Member involvement in the future oversight of the regime.
- 1.2 Following that meeting the Surveillance Commissioner carried out a programmed inspection of the Council and this report highlights his findings.

2 INTRODUCTION

- 2.1 As recommended by the Codes of Practice the Council agreed that the Review Committee should oversee the Council’s use of RIPA. This includes receiving quarterly reports on the Council’s use of its powers and reviewing the Council’s policy relating to RIPA on an annual basis.
- 2.2 The Inspection by the Surveillance Commissioner took place on 7 April 2011 and a copy of his report is appended.
- 2.3 The purpose of this report is to highlight the key findings of the Inspector and advise on the Council’s use of surveillance powers over the last quarter.

3 SURVEILLANCE COMMISSIONER’S REPORT

- 3.1 The report is very positive on the Council’s management and use of RIPA and the Committee will note the following key points:-
 - The 3 areas for improvement identified in the previous Inspector’s report made in 2008 have all been satisfactorily discharged.
 - The Council’s recently revised RIPA policy has been described as *“comprehensive and easy to understand”*.
 - The Inspector examined this Committee’s involvement with the RIPA process and concluded that, *“The minutes clearly illustrate that the Council and its Members approach their statutory responsibilities in a serious manner.”*
 - There is a high level of staff awareness on RIPA and the standard of training given is comprehensive.
 - Recent RIPA authorisations were of a good standard and complied within the law.
- 3.2 The Inspector identified some areas for further consideration:-

At paragraph 9 he indicates that it is not ideal that the Senior Responsible Officer (SRO) also has authority to give authorisations.

Although this may not be ideal in a larger organisation it doesn't present a difficulty in a small authority where there are few cases and where clear scrutiny arrangements are in place. The Inspector made no recommendations for change and it is not considered that any are necessary given the size of the authority and the number of cases dealt with.

At Paragraph 18 the Inspector highlights that in 2008 a RIPA authorisation to carry out surveillance was granted for one week, whereas the Code of Practice states that authorisations should continue for up to 3 months unless renewed or cancelled.

New measures have been introduced to regulate the process since that time including reducing the number of authorising officers and authorisations made after 2008 have been fully compliant with the 3 month requirement.

4 QUARTERLY STATISTICS ON THE COUNCIL'S USE OF RIPA POWERS

1 January – 31 March 2011

Authorisation Date	Nature of Authorisation	Expiry date / Review Date(s)/ Cancellation Date
08/02/11	Revenue & Benefits investigation requiring surveillance of residential premises. Allegation of overpayment of benefits to one person due to the non disclosure of the occupation of another person who is believed to be working.	Expiry date – 04/05/11 Reviewed – 23/02/11 Cancelled – 10/03/11

- 4.1 Due to the minimal number of authorisations granted it is proposed that reports on authorisations are made to the Committee on an annual basis rather than a quarterly basis with the next report in March 2012 when the Committee carries out its annual review of the RIPA policy.

5 RISK IMPLICATIONS

- 5.1 The improper or disproportionate use of RIPA powers could lead to adverse publicity in the media and serious reputational damage.

6 CRIME AND DISORDER IMPLICATIONS

- 6.1 Use of RIPA powers in an appropriate and proportionate manner can assist in the prevention and detection of crime.

7 LEGAL IMPLICATIONS

- 7.1 Failure to comply with RIPA legislation may mean that covert surveillance evidence will not be accepted in court and there may be issues of privacy/human rights contraventions.

The Rt Hon. Sir Christopher Rose



Office of Surveillance
Commissioners



Chief
Surveillance
Commissioner

Restricted

25th May 2011

Mr P. Warren,

Covert Surveillance

On 7th April 2011, one of my Inspectors, Mr Kevin Davis, visited your Council on my behalf to review your management of covert activities. I am grateful to you for the facilities afforded for the inspection.

I enclose a copy of Mr Davis's report which I endorse. I am pleased to see that the recommendations made following the last inspection 3 years ago have been discharged. Although you rarely use your covert powers, it is commendable that your officers are keen to discharge their RIPA responsibilities appropriately.

The single recommendation is that authorising officers familiarise themselves with the revised Codes of Practice, particularly in relation to the duration of authorisations.

I shall be glad to learn that your Council accepts the recommendations and will see that they are implemented.

One of the main functions of review is to enable public authorities to improve their understanding and conduct of covert activities. I hope your Council finds this process constructive. Please let this Office know if it can help at any time.

*Yours sincerely
Christopher Rose*

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