

LEWES DISTRICT COUNCIL

POLICY STATEMENT ON USE OF COVERT SURVEILLANCE

Introduction

1. Lewes District Council ('the Council') is committed to building a fair and safe community for all by ensuring the effectiveness of laws designed to protect individuals, businesses, the environment and public resources.
2. The Council recognises that most organisations and individuals appreciate the importance of these laws and abide by them. The Council will use its best endeavours to help them meet their legal obligations without unnecessary expense and bureaucracy.
3. At the same time the Council has a legal responsibility to ensure that those who seek to flout the law are the subject of firm but fair enforcement action. Before taking such action, the Council may need to undertake covert surveillance of individuals and/or premises to gather evidence of illegal activity.

Procedure

4. All physical or on-line covert surveillance (irrespective of whether its use falls within the ambit of the Regulation of Investigatory Powers Act 2000) and any use of covert human intelligence sources ('CHIS') shall be undertaken in accordance with the procedures set out in this document¹.
5. The Council shall ensure that covert surveillance and/or the use of CHIS is only undertaken where it complies fully with all applicable laws, in particular the:
 - Human Rights Act 1998
 - Regulation of Investigatory Powers Act 2000 ('RIPA')
 - Protection of Freedoms Act 2012
 - Data Protection Act 1998
6. The Council shall, in addition, have due regard to all official guidance and codes of practice, particularly those issued by the Home Office, the Office of Surveillance Commissioners (OSC), the Security Camera Commissioner and the Information Commissioner.
7. In particular, the following guiding principles shall form the basis of all covert surveillance and CHIS activity undertaken by the Council:
 - (i) Covert surveillance and/or the use of CHIS shall only be undertaken where it is absolutely necessary in order to achieve the desired aims.
 - (ii) Covert surveillance and/or the use of CHIS shall only be undertaken where it is proportionate to do so and in a manner that is proportionate.
 - (iii) No monitoring of social network sites for investigation purposes shall take place without considering whether such monitoring constitutes directed surveillance; nor, where it is considered to be so, without obtaining the requisite prior authorisation and approval.

¹ Except that, as stated in paragraph 7(vi), judicial approval is required only in relation to covert surveillance regulated by RIPA and to use of CHIS.

- (iv) Adequate regard shall be had to the rights and freedoms of those who are not the target of the covert surveillance.
 - (v) All authorisations to carry out covert surveillance and/or to use CHIS shall be granted by appropriately trained and designated authorising officers.
 - (vi) Covert surveillance regulated by RIPA and/or the use of CHIS shall only be undertaken after obtaining the approval of a magistrate.
8. With this mind, the Council has adopted a policy of not normally conducting covert surveillance and/or using CHIS but of doing so only as a last resort, where all other investigative options have been deemed insufficient. Whilst each situation will be considered on its own merits and all relevant factors will be taken into account, covert surveillance and/or the use of CHIS will be considered only where deemed a proportionate response of last resort.

Training and Review

- 9. All Council officers undertaking covert surveillance and/or using CHIS shall be appropriately trained to ensure that they understand their legal and moral obligations.
- 10. Regular audits shall be carried out to ensure that officers are complying with this policy.
- 11. The Senior Responsible Officer for RIPA (currently the Assistant Director of Legal and Democratic Services) shall review this policy at least once a year in the light of the latest legal developments and changes to official guidance and codes of practice.
- 12. The operation of this policy shall be overseen by Audit & Standards Committee by receiving reports every 12 months on this policy and its implementation, and on any RIPA activity conducted during the preceding 12-month period.

Conclusion

- 13. All citizens will reap the benefits of this policy, through effective enforcement of criminal and regulatory legislation and the protection that it provides.
- 14. Adherence to this policy will minimise intrusion into citizens' lives and will avoid any legal challenge to the Council's covert surveillance activities.
- 15. Any questions relating to this policy should be addressed to:

Catherine Knight, Assistant Director of Legal & Democratic Services, RIPA Senior Responsible Officer

Oliver Dixon, Lawyer and RIPA Co-ordinator

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