



To: The Leader and Executive Councillor for Strategy and Transformation: Councillor Lewis Herbert

Report by: Head of Legal Services/ Monitoring Officer

Relevant scrutiny committee: Strategy & Resources  
23/1/2017  
Scrutiny Committee

Wards affected: Abbey Arbury Castle Cherry Hinton Coleridge  
East Chesterton King's Hedges Market Newnham  
Petersfield Queen Edith's Romsey Trumpington  
West Chesterton

## **REVIEW OF USE OF THE REGULATION OF INVESTIGATORY POWERS ACT**

### **Not a Key Decision**

---

### **1. Executive summary**

- 1.1 A Code of Practice introduced in April 2010 recommends that councillors should review their authority's use of the Regulation of Investigatory Powers Act 2000 (RIPA) and set its general surveillance policy at least once a year. The Leader and Executive Councillor for Strategy and Transformation and Strategy and Resources Scrutiny Committee last considered these matters on the 18 January 2016.
- 1.2 The City Council has not used surveillance or other investigatory powers regulated by RIPA since February 2010.
- 1.3 This report sets out the Council's use of RIPA and the present surveillance policy.

### **2. Recommendations**

The Executive Councillor is recommended:

- 2.1 To review the Council's use of RIPA set out in paragraph 5.1 of this report.

- 2.2 To note and endorse the steps described in paragraph 7.1 and in Appendix 1 to ensure that surveillance is only authorised in accordance with RIPA.
- 2.3 To approve the amended general surveillance policy in Appendix 1 to this report.

### **3. Background**

- 3.1 The Regulation of Investigatory Powers Act imposes controls on the circumstances in which public bodies can use covert investigative methods in connection with their statutory functions. Local authorities may only use these methods for the purpose of preventing or detecting crime or of preventing disorder.
- 3.2 These are the activities that are regulated by RIPA:

#### **a) Covert directed surveillance**

Surveillance is “covert” if it is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place. It is “directed” if it is undertaken for the purposes of a specific investigation or operation in such a manner as is likely to result in the obtaining of private information about a person. Surveillance is not directed if it is an immediate response to events or circumstances; for instance if a police officer sees someone acting suspiciously and decides to follow them. The Council uses covert directed surveillance very sparingly – and has not used it at all in the period covered by this report.

#### **b) Covert human intelligence source (“CHIS”)**

A covert human intelligence source is someone who establishes or maintains a relationship with a person for the purpose of covertly obtaining or disclosing information. In practice, this is likely to cover the use of an informer or Council officer to strike up a relationship with someone as part of an investigation to obtain information “under cover”. The Council has never authorised the use of a “covert human intelligence source” under RIPA.

#### **c) Access to Communications Data**

There are stringent controls placed on access by the Council to “communications data”. The Council is not entitled to obtain access to the content of communications between third parties but can, in some

circumstances, obtain information relating to the use of a communications service. "Communications services" include telecom providers, postal services and internet service providers. The Council has never authorised access to communications data under RIPA.

- 3.3 More detail of the nature of the scope of RIPA and controls and procedures are set out in the general surveillance policy in Appendix 1.

#### **4. Member Supervision of the Use of RIPA**

- 4.1 A Home Office Code of Practice provides for a wider supervisory role for councillors. The code states that, at least once a year, councillors should review the Council's use of RIPA and set the general surveillance policy. This report gives members this opportunity.

The Council has not used RIPA powers since the Code of Practice came into effect. If RIPA powers are used, Councillors should consider internal reports on their use at least on a quarterly basis to ensure that they are being used consistently with the council's policy and that the policy remains fit for purpose. The Code emphasises that councillors should not be involved in making decisions on specific authorisations.

#### **5. The Council's Use of RIPA**

- 5.1 The City Council is very sparing in its use of RIPA powers. In fact, it has not authorised the use of RIPA powers in the period covered by this report (January 2016 to January 2017) and not used these powers since February 2010.
- 5.2 As mentioned in Section 3, the Council has never used RIPA powers to authorise the use of "confidential human intelligence sources" or the powers relating to the obtaining of communication data.
- 5.3 When members previously reviewed the Council's use of RIPA, they asked for information about surveillance etc. carried out by the Council under an authorisation given by a third party. This might arise where an investigation is being led by another agency (e.g. Police or HMRC) and the Council is asked to assist. There were two occasions in 2015 in which the Council assisted the Police in directed surveillance carried out through of the Council's CCTV. Both related to a single investigation into suspected sexual assault.

#### **6. The Protection of Freedoms Act 2012**

- 6.1 From 1 November 2012, all local authority surveillance authorised under the Regulation of Investigatory Powers Act 2000 (RIPA) has been subject to approval by a Magistrate.
- 6.2 Approval can only be given if the Magistrate is satisfied that:
- (a) There were reasonable grounds for the authorising officer approving the application to believe that the Directed Surveillance or deployment of a Covert Human Intelligence Source (CHIS) was necessary and proportionate and that there remain reasonable grounds for believing so.
  - (b) The authorising officer was of the correct seniority within the organisation i.e. a Director, Head of Service, Service Manager or equivalent.
  - (c) The granting of the authorisation was for the prescribed purpose, which is preventing or detecting crime or disorder and, in the case of directed surveillance, is confined to cases where the offence under investigation carries a custodial sentence of six months or more.
- 6.3 There are also additional safeguards in relation to the use of a CHIS. (As mentioned in paragraph 3.2, The Council has never authorised the use of a “covert human intelligence source” under RIPA.)

## **7. The Council’s Surveillance Policy**

- 7.1 The Council’s surveillance policy is set out at Appendix 1. It sets out the tests to apply in determining whether the use of RIPA powers is necessary and proportionate.
- 7.2 The policy was updated in 2016 to reflect the Office of Surveillance Commissioners Inspection Report carried out on the 25<sup>th</sup> April 2016. The report commended the Council on their management of surveillance and made minor amendments to the policy to reflect the Protection of Freedoms Act 2012, which restricted the Local Authorities powers of surveillance. Local Authorities were previously permitted under s.28 (3)(b) to authorise surveillance where it is necessary “for the purpose of preventing or detecting crime or preventing disorder”. This was subsequently amended in 2012 under 7A (3)(a) and (b) to only permit surveillance for criminal offences which are set to be prevented or detected, whether on summary conviction or on indictment by a max term of at least six months and would constitute an offence under s.146,147,147A of the Licensing Act 2003 or s.7 of the Children’s & Young Persons Act 1993. The

latter are all offences involving the sale of tobacco and alcohol to underage children.

- 7.3 The previous Head of Legal Services revised the policy in 2016 following the report.
- 7.4 No further changes to the policy are recommended at present.

## **8. Implications**

- a) **Financial Implications** - None
- (b) **Staffing Implications** - None
- (c) **Equality and Poverty Implications**

A formal equality impact assessment has not been carried out in preparing this report. Equality impact issues are addressed, and safeguards contained, within the body of the general surveillance policy which the Executive Councillor is being asked to endorse. Paragraph 10.5 of the policy highlights the need to consider equality issues as part of considering whether to use RIPA powers. Paragraph 10.7 highlights the special care needed if surveillance might involve obtaining access to religious material. The Head of Legal Services receives copies of all authorisations and takes an overview of the use of RIPA. The member supervision outlined in section 4 of this report would also help ensure that the policy is being applied properly.

- (d) **Environmental Implications**

The proposals in this report have a “nil” climate change impact.

- (e) **Procurement** - None
- (f) **Consultation and communication**

The RIPA general surveillance policy is based on legal requirements and the guidance contained in Home Office codes of practice and there has been no external consultation on this.

- (g) **Community Safety**

Although the Council’s use of RIPA has been very sparing, there have been, and will be, occasions on which the use of the powers are justified and necessary to ensure community safety.

## **9. Background papers**

These background papers were used in the preparation of this report:

Report to the Leader and Strategy and Resources Scrutiny Committee:  
Review of Use of The Regulation Of Investigatory Powers Act (19 January  
2015) This is a published source available at

<http://democracy.cambridge.gov.uk/ieListDocuments.aspx?CId=159&MId=2551&Ver=4>

House of Commons Library briefing paper dated 19 November 2015: Draft  
Investigatory Powers Bill. This is a published source available at

<http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7371#fullreport>

## **Appendix**

City Council RIPA Procedure Guide.

## **Inspection of papers**

To inspect the background papers or if you have a query on the report  
please contact:

Author's Name:	Tom Lewis
Author's Phone Number:	01223 - 457401
Author's Email:	Tom.Lewis@3csharedservices.com

*Appendix*  
*The Regulation of Investigatory Powers Act 2000: A procedure guide on the use of covert surveillance and “covert human intelligence sources”*

Statement of Intent: Cambridge City Council attaches a high value to the privacy of citizens. It will adhere to the letter and to the spirit of the Act and will comply with this Code.

## **1. Introduction**

- 1.1 The Regulation of Investigatory Powers Act 2000 (“RIPA”) is designed to ensure that public bodies respect the privacy of members of the public when carrying out investigations, and that privacy is only interfered with where the law permits and there is a clear public interest justification.

## **2. What does RIPA do?**

- 2.1 RIPA places controls on the use of certain methods of investigation. In particular, it regulates the use of surveillance and “covert human intelligence sources”. This guide covers these aspects of the Act. Further guidance will be issued on other aspects of the Act if necessary.
- 2.4 RIPA’s main implications for the Council are in respect of covert surveillance by Council officers and the use of “covert human intelligence sources”. (A covert human intelligence source is someone who uses a relationship with a third party in a secretive manner to obtain or give information – for instance an informer or someone working “under cover”).

## **3. Some definitions**

### **3.1 “Article 8 Rights”**

This refers to the rights of individuals under the European Convention on Human Rights:

*“Everyone has the right to respect for his private and family life, his home and his correspondence.*

*“There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”*

The Council must not infringe these rights unless they are acting in accordance with the law for one of the purposes mentioned in the second paragraph. Even then, any infringement of this right needs to be proportionate. (See paragraph 9.4.)

### **3.2 “Covert”**

Concealed, done secretly

### 3.3 *"Covert surveillance"*

Surveillance which is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place;

### 3.4 *"Directed surveillance"*

Directed surveillance is defined in RIPA as surveillance which is covert, but not intrusive, and undertaken:

- a) for the purposes of a specific investigation or operation;
- b) in such a manner as is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation); and
- c) otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under this Part to be sought for the carrying out of the surveillance (i.e. where the circumstances make it impractical to seek authorisation. An example might be where a police officer on patrol sees a person acting suspiciously and decides to watch them surreptitiously to see whether they are intending to commit a crime.)

Private information in relation to a person includes any information relating to his private or family life.

### 3.5 *"Intrusive surveillance"*

Intrusive surveillance is defined in section 26(3) of the 2000 Act as covert surveillance that:

- a. is carried out in relation to anything taking place on any residential premises or in any private vehicle; and
- b. involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device.

## **4. RIPA and Surveillance – what is not covered**

- 4.1 General observation forms part of the duties of some Council officers. They may, for instance, be on duty at events in the City and will monitor the crowd to maintain public safety and prevent disorder. Environmental Health Officers might covertly observe and then visit a shop as part of their enforcement function. Such observation may involve the use of equipment merely to reinforce normal sensory perception, such as binoculars, or the use of cameras, where this does not involve systematic surveillance of an individual. It forms a part of the everyday functions of law enforcement or other public bodies. This low-level activity will not usually be regulated under the provisions of RIPA.



- 4.2 Neither do the provisions of the Act cover the use of overt CCTV surveillance systems. Members of the public are aware that such systems are in use, for their own protection, and to prevent crime. (There is a separate Code of Practice adopted by the Council to govern use of CCTV. For information about this, contact Martin Beaumont, CCTV Manager.)

## **5. RIPA and Surveillance – What is covered?**

- 5.1 The Act is designed to regulate the use of “covert” surveillance. Covert surveillance means surveillance which is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place. Strictly speaking, only two types of covert surveillance are regulated by RIPA – “directed” and “intrusive” surveillance. However, where the purpose of a surveillance operation is to obtain private information about a person, the authorisation procedures set out in this guide should be followed and the surveillance treated as being “directed”.

## **6. What is “directed surveillance”?**

### **6.1 Directed surveillance is defined in RIPA as surveillance which is covert, but not intrusive, and undertaken:**

- a) for the purposes of a specific investigation or operation;
- b) in such a manner as is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation); and
- c) otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under this Part to be sought for the carrying out of the surveillance. (See the clarification of this in paragraph 3.3.)

Private information in relation to a person includes any information relating to his private or family life.

- 6.2 Directed surveillance is conducted where it involves the observation of a person or persons with the intention of gathering private information to produce a detailed picture of a person’s life, activities and associations. However, it does not include covert surveillance carried out by way of an immediate response to events or circumstances which, by their very nature, could not have been foreseen. For example, a plain clothes police officer would not require an authorisation to conceal himself and observe a suspicious person who he comes across in the course of a patrol.
- 6.3 Directed surveillance does not include any type of covert surveillance in residential premises or in private vehicles. Such activity is defined as “intrusive surveillance” and is dealt with in paragraph 7.
- 6.4 In practice, the sort of directed surveillance which the Council might undertake would include the use of concealed cameras as part of an investigation into antisocial behaviour or breach of tenancy conditions. It might include covert

surveillance connected with the enforcement of environmental health or planning regulations or in connection with investigating benefit fraud. You should treat anything involving the use of concealed cameras or anything involving keeping covert observation on premises or people as potentially amounting to directed surveillance. If you are unsure, please take advice either from your manager or supervisor, or from the Head of Legal Practice.

- 6.5 Directed surveillance **must** be properly authorised in accordance with the procedure set out in section 9.
- 6.6 You should treat any covert surveillance which is likely to intrude upon anyone's privacy to more than a marginal extent as directed surveillance, even if it does not fall within the strict terms of the definition – for instance where surveillance is not part of a specific investigation or operation.

## **7. Directed Surveillance and Social Media**

- 7.1 The use of the internet may be required to gather information prior to and/or during an operation, which may amount to directed surveillance. Whenever you intend to use the internet as part of an investigation, you must first consider whether the proposed activity is likely to interfere with a person's Article 8 rights, including the effect of any collateral intrusion. (See Section 3 for an explanation of Article 8 rights.)
- 7.2 Any activity likely to interfere with an individual's Article 8 rights should only be used when necessary and proportionate to meet the objectives of a specific case. If your proposed use of social media in connection with an investigation amounts to covert directed surveillance within the scope of RIPA by electronic means, an authorisation in accordance with the procedure set out in section 9. Where an investigator may need to communicate covertly online, for example contacting individuals using social media websites, a CHIS authorisation is likely to be needed and the Head of Legal Service should be consulted.
- 7.3 Where individuals publish information freely (e.g. twitter accounts, LinkedIn profiles), there is unlikely to be any interference with Article 8 rights. This is also likely to be the case with other information published openly on the Internet. Care should be taken with other social media, such as Facebook. Even if the user has not used privacy settings to restrict access, this does not necessarily mean that they have made a decision to publish personal information to the world. It is likely to be proportionate, in connection with an investigation (e.g. benefit fraud) to make a single visit to an unsecured Facebook profile. Further visits could amount to surveillance. If you are considering monitoring social media such as Facebook in connection with an investigation. you should first seek advice on whether RIPA authorisation is needed.

## **8. What is intrusive surveillance?**

**An important warning: the Council cannot authorise intrusive surveillance.**

- 8.1 Intrusive surveillance is defined as covert surveillance that:
  - a. is carried out in relation to anything taking place on any residential premises or in any private vehicle; and

b. involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device.

8.2 In essence, intrusive surveillance amounts to intrusion into people's homes or vehicles either physically or by means of a surveillance device.

8.3 **Intrusive surveillance cannot be undertaken without authorisation and the Council cannot authorise intrusive surveillance.** Bodies such as the Police and Customs and Excise can authorise intrusive surveillance. If you are asked by another agency to co-operate with intrusive surveillance, you should seek advice from the Head of Legal Practice immediately. Where other authorities say that they are authorised to undertake intrusive surveillance but need our co-operation, we need to check that their authorisation is in order.

## 9. What is a covert human intelligence source?

9.1 A covert human intelligence source is someone who establishes or maintains a relationship with a person for the purpose of covertly obtaining or disclosing information. In practice, this is likely to cover the use of an informer or Council officer to strike up a relationship with someone as part of an investigation to obtain information "under cover".

9.2 Someone who volunteers information to the Council, either as a complainant (for instance, about anti-social behaviour or a breach of planning regulations) or out of civic duty, is unlikely to be a covert human intelligence source. If someone is keeping a record, say, of neighbour nuisance, this will not amount by itself to use of a covert human intelligence source. However, if we are relying on, say, a neighbour to ask questions with a view to gathering evidence, then this may amount to use of a covert human intelligence source.

9.3 The use by the Council of covert human intelligence sources is expected to be extremely rare and, for that reason, this guide does not deal with the issues to which they give rise. If you are contemplating use of a covert human intelligence source, please take advice from the Head of Legal Practice before putting your plan into action.

## 10. Authorising Directed Surveillance: The Rules

10.1 It is crucial that all directed surveillance is properly authorised. Failure to secure proper authorisation and to comply with this procedure could lead to evidence being excluded by the courts and to complaints against the Council. The Council is subject to audit and inspection by the Office of the Surveillance Commissioner and it is important that we can demonstrate compliance with RIPA and with this code. **Again, please note that the Council cannot authorise intrusive surveillance – see section 8.**

10.2 **Who can authorise directed surveillance?** Regulations made under the Act say that the most junior level at which authorisations can only be given is by what it refers to as "assistant chief officers". For the purposes of this Code, authorisations may only be given by the officers identified in the Appendix to this Guide referred to as "authorising officers". In cases of urgency, if it is not possible to seek

authority from an authorising officer, authority may be given by a deputy to an authorising officer, but ratification of that authority should be sought at higher level as soon as practical, and the reasons for urgency recorded on the authorisation form. Where practical, the authorising officer should not be directly involved in the case giving rise to the request for authorisation. (However, an authorising officer may authorise a request made by staff who report to them if they are not directly involved in the case.) Where it is not practical for authorisation to be given by an officer who is not directly involved, this should be noted with reasons on the authorisation form. In addition to internal authorisation, directed surveillance cannot be carried out without the approval of a Magistrate. (See paragraph 10.2 below.)

**10.3 On what grounds can directed surveillance be authorised?** Directed surveillance can only be authorised by local authorities:

- for the purpose of preventing or detecting serious crime where the offence under investigation carries a custodial sentence of six months or more; or
- for the purpose of preventing or detecting conduct which is an offence under—
  - (i) section 146 of the Licensing Act 2003 (sale of alcohol to children);
  - (ii) section 147 of the Licensing Act 2003 (allowing the sale of alcohol to children);
  - (iii) section 147A of the Licensing Act 2003 (persistently selling alcohol to children);
  - (iv) section 7 of the Children and Young Persons Act 1933 (sale of tobacco, etc, to persons under eighteen).”.

When the legislation was introduced, the Council could authorise directed surveillance on other grounds (e.g. in the interests of public safety or in the interests of protecting public health, or to prevent or detect disorder) but the serious crime ground is the only one available to local authorities. The Police have wider powers to authorise directed surveillance.

Please note that surveillance has to be **necessary** for the serious crime purpose. If you can just as well carry out an investigation by means which do not involve directed surveillance, then you should use them.

**10.4 Is the proposed surveillance proportionate?** Authorisation should not be sought, and authority should not be given unless you are satisfied that the surveillance is proportionate. You should make sure that any interference with privacy is justified by the end being sought. Unless the benefit to be obtained from surveillance is significant, and unless the problem you are seeking to tackle is serious, the use of surveillance is unlikely to be proportionate. We should not “use a sledgehammer to crack a nut”!

**10.5 Is the proposed surveillance discriminatory?** The Council is under a legal obligation to avoid either direct or indirect discrimination in carrying out its functions. As surveillance can interfere with rights contained in the European Convention on Human Rights, discrimination can also amount to a breach of the Human Rights Act. You should be sensitive to this issue and ensure that you apply similar standards to seeking or authorising surveillance regardless of ethnic origin, sex or sexual orientation, disability, age etc. You should be alert to any

assumptions about people from different backgrounds which may not even be consciously held.

- 10.6 **Might the surveillance involve “collateral intrusion”?** In other words, might the surveillance intrude upon the privacy of people other than those who are the subject of the investigation. You should be sensitive of the privacy rights of third parties and consider very carefully whether the intrusion into their privacy is justified by the benefits of undertaking the surveillance.
- 10.7 **Might the surveillance involve acquiring access to any confidential or religious material?** If so, then the surveillance will require a particularly strong justification and arrangements need to be put in place to ensure that the information obtained is kept secure and only used for proper purposes. Confidential material might include legal or financial records, or medical records. Where there is a possibility that access to confidential or religious material might be obtained, the authorisation of the Chief Executive (or, in her absence in cases where it is not practical to wait for her return, the authorisation of a Director acting as her deputy) should be sought.

## 11. Authorising Directed Surveillance: The Procedure

### 11.1 Applying for authorisation.

- 11.1.1 Detailed guidance on the authorisation procedure and on how to complete the statutory forms is available on the Council’s Intranet at <http://intranet/Guidelines/Docs/RIPA%20Guidance%20Manual.pdf> The individual forms are available separately and links to them are set out in Appendix 3. You must only use the forms that are on the Intranet, you should read the accompanying notes carefully and follow them when completing the form.
- 11.1.2 Before submitting an application for authorisation, you must supply a copy of your request to the Head of Legal Practice. You may only submit your application for authorisation if you obtain the approval of the Head of Legal Practice.
- 11.1.3 A written application for authorisation for directed surveillance should describe in detail any conduct to be authorised and the purpose of the investigation or operation. The application should also include:
- the reasons why the authorisation is necessary in the particular case and on the grounds (e.g. for the purpose of preventing or detecting crime) listed in Section 28(3) of the 2000 Act;
  - the reasons why the surveillance is considered proportionate to what it seeks to achieve;
  - the nature of the surveillance;
  - the identities, where known, of those to be the subject of the surveillance;
  - an explanation of the information which it is desired to obtain as a result of the surveillance;

- the details of any potential collateral intrusion and why the intrusion is justified;
- the details of any confidential information that is likely to be obtained as a consequence of the surveillance.
- the level of authority required (or recommended where that is different) for the surveillance; and
- a subsequent record of whether authority was given or refused, by whom and the time and date.

## **11.2 Approval by a Magistrate**

11.2.1 The internal authorisation for covert surveillance is not to take effect until a Magistrate has made an order approving it. Approval can only be given if the Magistrate is satisfied that:

(a) There were reasonable grounds for the authorising officer to believe that the directed surveillance was necessary and proportionate and that there remain reasonable grounds for believing so.

(b) The authorising officer was of the correct seniority within the organisation i.e. a Director, Head of Service, Service Manager or equivalent.

(c) The granting of the authorisation was for preventing or detecting crime and that the offence under investigation carries a custodial sentence of six months or more

11.2.2 You must not commence covert surveillance until you have confirmation that the Magistrate's approval has been given.

## **11.3 Duration of authorisations**

11.3.1 A written authorisation granted by an authorising officer will cease to have effect (unless renewed) at the end of a period of **three months** beginning with the day on which it took effect.

11.3.2 Even though authorisations cease to have effect after three months, you should not simply leave them to run out. When the surveillance ceases to be necessary, you should always follow the cancellation procedure. See section 10.6. Where surveillance has ceased, we must be able to match each authorisation with a cancellation.

## **11.4 Reviews**

11.4.1 Regular reviews of authorisations should be undertaken to assess the need for the surveillance to continue. The maximum period between authorisation and review, and between reviews, should be four weeks. The more significant the infringement of privacy, the more frequent should be the reviews. The results of a review should be recorded on the central record of authorisations (see paragraph 11). Particular attention is drawn to the need to review authorisations frequently where the surveillance provides access to confidential information or involves collateral intrusion.

11.4.2 In each case authorising officers within the Council should determine how often a review should take place. This should be as frequently as is considered necessary and practicable.

11.4.3 A link to the form to record a review of an authorisation may be found in Appendix 2 to this Guide.

## **11.5 Renewals**

11.5.1 If at any time before an authorisation would cease to have effect, the authorising officer considers it necessary for the authorisation to continue for the purpose for which it was given, s/he may renew it in writing for a further period of **three months**. A renewal cannot take effect unless it has been approved by a Magistrate. If you think a renewal might be needed, you should plan to allow sufficient time for an application to a Magistrate to be made before expiry.

11.5.2 A renewal takes effect at the time at which, or day on which the authorisation would have ceased to have effect but for the renewal. An application for renewal should not be made until shortly before the authorisation period is drawing to an end. Any person who would be entitled to grant a new authorisation can renew an authorisation. Authorisations may be renewed more than once, provided they continue to meet the criteria for authorisation.

11.5.3 All applications for the renewal of an authorisation for directed surveillance should be made on the form linked to Appendix 2 to this guide and should record:

- whether this is the first renewal or every occasion on which the authorisation has been renewed previously;
- any significant changes to the information given in the original application for authorisation;
- the reasons why it is necessary to continue with the directed surveillance;
- the content and value to the investigation or operation of the information so far obtained by the surveillance;
- the results of regular reviews of the investigation or operation.

11.5.4 Authorisations may be renewed more than once, if necessary, and the renewal should be kept/recorded as part of the central record of authorisations (see paragraph 12).

## **11.6 Cancellations**

11.6.1 The authorising officer who granted or last renewed the authorisation must cancel it if he is satisfied that the directed surveillance no longer meets the criteria upon which it was authorised. Where the authorising officer is no longer available, this duty will fall on the person who has taken over the role of authorising officer. If in doubt about who may cancel an authorisation, please consult the Head of Legal Practice. Cancellations are to be effected by completion of the form linked to in Appendix 2 to this Guide.

**11.6.2 N.B. Please note the warning in paragraph 10.3.3 that there must be a completed cancellation for each authorisation once surveillance has been completed. An authorisation cannot simply be allowed to expire.**

## **11.7 Ceasing of surveillance activity**

11.7.1 As soon as the decision is taken that directed surveillance should be discontinued, the instruction must be given to those involved to stop all surveillance of the subject(s). The date and time when such an instruction was given should be included in the Notification of Cancellation form.

## **12. Record Keeping and Central Record of Authorisations**

12.1 In all cases in which authorisation of directed surveillance is given, the Service Head is responsible for ensuring that the following documentation is kept safely for a period of at least three years from the date of authorisation:

- a copy of the application and a copy of the authorisation together with any supplementary documentation and notification of the approval given by the authorising officer;
- a record of the period over which the surveillance has taken place;
- the frequency of reviews prescribed by the authorising officer;
- a record of the result of each review of the authorisation;
- a copy of any renewal of an authorisation, together with the supporting documentation submitted when the renewal was requested;
- the date and time when any instruction was given by the authorising officer.

12.2 In addition, copies the following must be sent to the Head of Legal Practice immediately upon completion:

- all completed forms authorising directed surveillance;
- all completed forms authorising renewal of directed surveillance;
- all completed forms cancelling directed surveillance.

These will be kept by the Head of Legal Practice who will review them at least every twelve months in his capacity as the Council's Monitoring Officer.

## **13. Authorising Use of Covert Human Intelligence Sources**

13.1 Similar principles and procedures apply to authorising the use of covert human intelligence sources, including the need for authorisations to be approved by a Magistrate. If it becomes apparent that their use is more than very exceptional, detailed guidance will be published and circulated. For the present, officers' attention is drawn to the explanation of the nature of a covert human intelligence source in Paragraph 9. If you think you might be using, or might use, a covert human intelligence source, please contact the Head of Legal Practice, who will



advise on the principles to be applied, the authorisation procedure, record keeping etc. For the avoidance of doubt, the Council will comply, so far as applicable, with the model guidance issued by the Home Office.

#### **14. Authorisations by Third Parties**

- 14.1 You may be approached by another agency, e.g. the Police or HMRC, to co-operate in undertaking activities regulated by RIPA. In cases where the City Council is acting on behalf of another agency, the tasking agency should normally obtain and provide evidence of the RIPA authorisation. Although the Council can act on an authorisation obtained by another agency, it is still important for the Council to reach a view on whether it is appropriate to co-operate. Please, where practical, seek the advice of the Head of Legal Practice before acting on a third-party authorisation.
- 14.2 Home Office guidance says that, where possible, public authorities should seek to avoid duplication of authorisations as part of a single investigation or operation. For example, where two agencies are conducting directed surveillance as part of a joint operation, only one authorisation is required. Duplication of authorisations does not affect the lawfulness of the activities to be conducted, but may create an unnecessary administrative burden on authorities. But we should not use Police authorisation as a means to avoid the safeguards put in place for local authority use of RIPA or as a means of carrying out surveillance for purposes not authorised for local authorities; e.g. intrusive surveillance or surveillance for non-permitted purposes. If it is primarily a Council operation, then the Council should be responsible for authorisation.
- 14.3 You must notify the Head of Legal Practice of all occasions on which you act under a RIPA authorisation obtained by a third party.

#### **15. Access to Communications Data**

- 15.1 There are stringent controls placed on access by the Council to “communications data”. The Council is not entitled to obtain access to the content of communications between third parties but can, in some circumstances, obtain information relating to the use of a communications service. “Communications services” include telecom providers, postal services and internet service providers.
- 15.2 This is a complex area, procedurally and legally. Access to communications data can only be obtained through the Council’s designated “single point of contact” (“SPOC”) for communications data. The Head of Legal Practice has this role and you should consult him at an early stage if you think you may need access to communications data.

#### **16. Covert surveillance outside of RIPA**

- 16.1 Not all types of covert surveillance falls within the scope of RIPA which, for local authorities, is limited to criminal investigations and the underage sale of alcohol or tobacco. On occasion, it may be appropriate to carry out covert surveillance in connection with, for instance, an audit or disciplinary investigation. Formal RIPA authorisation will not be needed in these circumstances but the principles embodied in RIPA still apply. In these circumstances, you should complete the non-RIPA application form and

submit it to an authorising officer for approval. Detailed guidance on non-RIPA surveillance is available on the Intranet at <http://live.drupal.intranet.ccc.local/content/regulation-investigatory-powers-act-2000> .

## **17. Further Information**

- 17.1 Departments may wish to develop their own guidance and Environmental Health and Waste Management has already done so. This is to be encouraged. However, the principles and procedures contained in departmental guidance must be compatible with this guidance.
- 17.2 There is helpful information on the Home Office web site about RIPA. See below for links.
- 17.3 The Head of Legal Practice will be happy to advise further on issues connected with RIPA. Departments need to consider what their training needs are in this area and the Head of Legal Practice is willing to discuss what help he can offer with this.

Tom Lewis  
Head of Legal Services

# Approved Authorising Officers for the Purposes of the Regulation of Investigatory Powers Act 2000

---

- David Edwards      Strategic Director
- Suzanne McBride   Strategic Director

The Leader of the Council delegated power to the Chief Executive to designate authorised officers for the purposes of Chapters II and III of the Act. (Record of Decision ref: 07/S&R/14, 3 September 2007).

## Links

---

Links to Home Office Information on RIPA, including codes of practice are at <http://www.homeoffice.gov.uk/counter-terrorism/regulation-investigatory-powers/> Forms are also available via this site but you should only use the forms on the Council's Intranet, which may be found through the links in Appendix Three.

## Intranet Guidance

---

### ***RIPA Covert Surveillance Forms and Guidance***

#### **Regulation of Investigatory Powers Act 2000**

#### **Guidance on the use of covert surveillance and "covert human intelligence sources"**

- [The Regulation of Investigatory Powers Act 2000 - Procedure Guide 2013 \[DOC, 87kB\]](#)

The guidance manual and the information set out in all the forms below have been purchased from an external source and copyright belongs to Ibrahim Hasan (2010) of Act Now Training - [www.actnow.org.uk](http://www.actnow.org.uk) - Surveillance Law Training and Resources. Under no circumstances should copies of the manual or guidance be provided to any other person or organisation outside Cambridge City Council.

#### **RIPA Guidance Manual**

- [1. Introduction \[PDF, 0.5MB\]](#)
- [2. Guidance for Authorising Officers \[PDF, 153kB\]](#)
- [3. Completing the RIPA Forms \[PDF, 0.8MB\]](#)
- [4. Seeking Magistrates' Approval \[PDF, 121kB\]](#)
- [5. Non RIPA Surveillance \[PDF, 0.6MB\]](#)

#### **Directed Surveillance (DS) Forms**

- [15 DS Review Form.doc \[DOC, 61kB\]](#)
- [14 DS Application Form.doc \[DOC, 115kB\]](#)
- [17 DS Cancellation Form.doc \[DOC, 47kB\]](#)
- [16 DS Renewal Form.doc \[DOC, 59kB\]](#)

#### **Covert Human Intelligence Source (CHIS) Forms**

- [Completing the CHIS Forms.doc \[DOC, 24kB\]](#)
- [CHIS Review \[DOC, 62kB\]](#)
- [CHIS Application \[DOC, 122kB\]](#)

- [CHIS Cancellation \[DOC, 45kB\]](#)
- [CHIS Renewal \[DOC, 61kB\]](#)
- [CHIS Non-RIPA Form \[DOC, 89kB\]](#)

