

RIPA - STATEMENT OF USE

Statement on the use of Covert Surveillance Techniques and Human Intelligence Sources

Introduction

1. The primary function of local government enforcement work is to protect the individual, the environment and a variety of groups such as children, consumers and workers. Carrying out enforcement functions in an equitable, practical and consistent manner helps to promote a thriving national and local economy. We are committed to these aims and to maintaining a fair and safe society.
2. The effectiveness of legislation in protecting individuals or sectors of society depends, crucially, on the compliance of those being regulated. We recognise that most people want to comply with the law.
3. We will, therefore, take care to help businesses and others meet their legal obligations without unnecessary expense, while taking firm action against those who flout the law, act irresponsibly or endanger the health of others.
4. Sometimes, in the course of our enforcement work, it may become necessary to carry out surveillance work to fulfil our statutory duties. This policy is intended to demonstrate that this method of obtaining information or evidence will only be used when no other technique will suffice.
5. All citizens will reap the benefits of this policy, through effective enforcement of criminal legislation and the protection that it provides, with the minimum intrusion into the activities of the individual.

Regulation Of Investigatory Powers Act 2000 (RIPA)

1. Surveillance plays a necessary part in modern life. It is used not just in the targeting of criminals, but also as a means of protecting the public from harm and preventing crime.
2. Within the Council, housing benefit officers may need to covertly observe individuals suspected of benefit fraud. Trading standards officers may need to use covert surveillance techniques as part of an investigation into an alleged rogue trader. Illegal fly-tipping investigations may require the covert use of CCTV. Similarly, planning enforcement officers may need to observe the activities taking place on private premises where complaints have been received that the premises are being used for business purposes. Officers from each of the Council's service units that have regulatory or enforcement powers may all, on occasions, need to use covert surveillance techniques as part of their official duties.
3. Covert directed surveillance is undertaken in relation to a specific investigation or operation, where the person or persons subject to the surveillance are unaware that it is, or may be, taking place. The activity may result in obtaining private information about a person, whether or not it is specifically for the purpose of the investigation.
4. Our investigations may also require the use of Covert Human Intelligence Sources. These may be undercover officers, agents or informants. Such sources may be used by the Council to obtain and pass on information about another person, without their knowledge, as a result of establishing or making use of an existing relationship. This clearly has implications for a person's privacy and is an activity which the legislation strictly regulates.

5. The Regulation of Investigatory Powers Act 2000 introduced a system of authorisation and monitoring of surveillance activities, to ensure that the rights of the individual are not unnecessarily compromised, in the pursuance of regulatory compliance. The RIPA also requires a similar control and authorisation procedure for the acquisition of telecommunications data. The Council has to comply with these requirements when obtaining telephone subscriber and billing information.
6. The Act also established an Office of Surveillance Commissioners, whose duty it is to inspect public bodies undertaking this type of work, and introduced an Investigatory Powers Tribunal to investigate complaints that human rights have been infringed.

Policy Statement

1. The Council will not undertake any activity defined within the Regulation of Investigatory Powers Act 2000 without prior, or emergency, authorisation from a trained, senior officer who is empowered to grant such consents.
2. The Council's Authorising Officers will be at Service Director (third tier management level) or above. The Chief Executive is the only officer who can authorise requests where knowledge of "confidential information" as defined by the relevant legislation is likely to be acquired.
3. Authorising Officers will not permit the use of surveillance techniques or human intelligence sources unless the authorisation can be shown to be necessary to preventing and detecting crime. The following conditions must also apply:
 - (a) the criminal offence to be prevented or detected is punishable by a maximum term of at least six months' imprisonment, or
 - (b) it constitutes an offence under sections 146, 147 or 147A of the Licensing Act 2003 (sale of alcohol to children) or section 7 of the Children and Young Persons Act 1933 (sale of tobacco to children under 18 years old).
4. This is the only purpose for which the Council can undertake covert directed surveillance.
5. The Council can only use directed covert surveillance for the purpose of
6. In addition, Authorising Officers will ensure that the surveillance is proportionate to what it seeks to achieve. In making this judgement, the officer will consider whether the information can be obtained using other methods and whether efforts have been made to reduce the impact of the surveillance on other people, who are not the subject of the operation.
7. Authorisations will, except in emergencies where legislation permits, be made in writing and contain the following details:
 - The action to be authorised
 - The identity (if known) of the subject in the operation
 - The grounds for the application
 - The information being sought
 - The potential for intrusion into the activities of others.

8. Since November 1 2012 the authorisation requires judicial approval, and this is obtained by way of application to the Magistrates' Court. If the Magistrates' Court refuses to approve the grant of the authorisation then it may make an order to quash that authorisation. Please see the [Home Office Guidance](#) with reference to the process to be undertaken.
9. The Council is not legally entitled to undertake intrusive covert surveillance. Intrusive surveillance operations are defined as activities using covert surveillance techniques, on residential premises, or in any private vehicle, which involves the use of a surveillance device, or an individual, in such a vehicle or on such a premise.
10. However, the Council is permitted to record telephone conversations, where one party consents to the recording being made and a covert directed surveillance authorisation has been granted. Sometimes, officers of the Council do need to record telephone conversations, to secure evidence.
11. The Council has a Senior Responsible Officer (SRO) to ensure the integrity of the process in place within the Council for the management of surveillance that requires authorisation under RIPA and compliance with the Home Office Codes of Practice. The SRO is the Council's Monitoring Officer and is a member of the corporate leadership team.
12. Councillors who are members of the Audit & Governance Committee will review the Council's policy and use of RIPA. Councillors are not involved in making decisions on specific authorisations.
13. It is the policy of the Council to be open and transparent in the way that it works and delivers its services. To that end, a Corporate Complaints procedure is in place and further guidance will always be provided on request.

The Home Office RIPA website is a very useful resource if you would like to know more about the legislation and how it works: <http://security.homeoffice.gov.uk/ripa/>