

UNCLASSIFIED

Regulation of Investigatory Powers Act 2000 Covert Surveillance & Covert Human Intelligence Sources Policy

Status/Version: 7.0 For Approval
Effective:

1 Policy Statement Objective

- 1.1 The objective of this policy is support Coventry City Council's (the Council) compliance with Part 2 of the Regulation of Investigatory Powers Act 2000 (RIPA), Chapter 2 of Part 2 of the Protection of Freedoms Act 2012, the Human Rights Act 1998 (HRA) and Data Protection Act 1998 when carrying out covert surveillance and conducting or using covert human intelligence sources (CHIS), (hereinafter collectively known as 'directed surveillance').
- 1.2 Only core functions within Coventry City Council are authorised to use **directed surveillance**, under RIPA, in order to prevent and detect criminal offences that are either punishable by a maximum term of at least 6 months' imprisonment OR criminal offences relating to the underage sale of alcohol and tobacco.

2 Audience

- 2.1 This policy applies to the following:
- i) Employees, including temporary, contractual and agency involved with requesting, authorising, undertaking or monitoring requests for covert surveillance;
 - ii) Members in their role of endorsing and monitoring compliance with this policy;
- 2.2 For ease of reference, the term 'users' will be used throughout this policy to reflect 2.1

3 In Scope

- 3.1 This policy covers directed surveillance for:
- i) Core functions, eg enforcement activities undertaken by Trading Standards;
 - ii) Surveillance that is likely to result in obtaining private information about a person;
and
 - iii) Use of Covert Human Intelligence Sources (CHIS);

4 Out of Scope

- 4.1 Routine patrols, observations at trouble 'hot spots', immediate response to events and overt use of CCTV.
 - 4.2 Part 1 Regulation of Investigatory Powers Act 2000 - The Acquisition & Disclosure of Communications Data is covered by a separate policy.
 - 4.3 The covert and overt surveillance and monitoring of employees is covered by the Information Commissioner's Employment Code of Practice, Section 3: Monitoring of Employees.
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5 Implementation

- 5.1 This policy has been developed in consultation with representatives from those departments covered by section 3 of this policy.
 - 5.2 This policy is operational from the date of approval and replaces any previous version.
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6 Risks

- 6.1 The Council recognises that there are risks associated when conducting directed surveillance. This policy aims to help mitigate risks such as:
 - i) Unlawful use of directed surveillance or CHIS;
 - ii) Disproportionate and unnecessary use;
 - iii) Inappropriate and/or unlawful use of information relating to directed surveillance activities;
 - iv) Inadequate safeguards for test purchasers or CHISs;
 - v) Inappropriate or ineffective monitoring of the Council's use of RIPA Part II;
 - vi) Inadequate protection of private information about a person;
 - vii) Inadequate procedures and training supporting this policy
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7 Other Relevant Documents

- 7.1 The following documents have specific relevance to this policy:
 - i) Home Office [Guidance to Local Authorities](#) on the Judicial Approval Process
 - ii) Home Office [Guidance for Magistrates' Courts](#) for a Local Authority Application Seeking an Order Approving the Grant or Renewal of a RIPA Authorisation or Notice
 - iii) Home Office [Application forms](#)
 - iv) Home Office [Approval/Order](#) Form for the Magistrates' Court
 - v) Internal Procedures & Guidance for RIPA Covert Surveillance & CHIS
 - vi) Human Rights Act 1998

vii) [Data Protection Act Policy](#)

- 7.2 The above is not an exhaustive list and it is the user's responsibility to seek further guidance if required.
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8 Policy

- 8.1 Directed surveillance will only be used for the purpose of preventing and detecting crime where it is proposed to use it to investigate offences that are punishable by a maximum term of at least 6 months imprisonment, **OR** are related to the underage sale of alcohol or tobacco. Examples of enforcement activities which may need to use directed surveillance include: Trading Standards investigations relating to counterfeiting and fraudulent trading activity, benefit fraud. The Council will **not** seek to use directed surveillance under RIPA to investigate offences such as littering, dog control and fly-posting.
- 8.2 The use of such powers will also give due regard to current and relevant legislation, and will ensure it complies fully with other applicable laws:
- i) Human Rights Act 1998
 - ii) Protection of Freedoms Act 2012
 - iii) Data Protection Act 1998
- 8.3 The Council shall also have due regard to relevant official guidance, particularly those issued by the Home Office, the [Office of Surveillance Commissioners](#) (OSC), the [Surveillance Camera Commissioner](#) and the [Information Commissioner](#).
- 8.4 Only directed surveillance requests that have taken into account the requirements of this policy will be submitted for judicial approval. Such requests should demonstrate that:
- i) Directed surveillance is deemed necessary in order to achieve the desired objective
 - ii) Directed surveillance is only undertaken where it is proportionate to do so and in a manner that is proportionate to the objective
 - iii) Adequate regard has been given to the rights and freedoms of the individuals, including those who are not the focus of the directed surveillance
 - iv) An Authorising Officer has reviewed and endorsed the application
 - v) No directed surveillance activities have taken place before judicial approval has been received.
- 8.5 Officers of appropriate seniority, eg Director, Head of Service, Service Manager or equivalent, will be appointed as the RIPA Monitoring Officer and Authorised Officers. Roles and responsibilities of such officers and supporting areas will be included in the Council's internal procedural guidance.
- 8.6 A CHIS or test-purchaser will only be used if the information sought cannot be reasonably obtained by other means. When considering such requests, a risk assessment will be undertaken in order to safeguard the individual from harm or exploitation.

- 8.7 If in exceptional circumstances a proposed CHIS is a vulnerable individual and/or under the age of 18, approval must be sought from the Chief Executive, or their delegated deputy.
- 8.8 When applying for an authorisation, the applicant will need to give consideration of any particular sensitivity in the local community where the surveillance will be taking place and any similar surveillance activities other agencies may be undertaking.
- 8.9 Surveillance equipment will only be used when sufficient evidence has been documented to warrant the exercise.
- 8.10 All applications, renewals or cancellations will comply with the timescales outlined in the [Home Office Code of Practice](#).
- 8.11 Council enforcement staff and officers will have recourse to supporting procedures, which have been approved by the RIPA Monitoring Officer and Authorised Officers, and other guidance and resources which will be made available internally to enforcement officers.
- 8.12 All Council officers and staff undertaking or authorising directed surveillance shall be appropriately trained to ensure that they understand their legal obligations and the framework in which their decisions are made.
- 8.13 Requests from external agencies wishing to access the Council's facilities and/or CCTV equipment for a planned covert operation, must provide a copy of their organisation's authorised RIPA form and, where relevant, judicial approval, before access is granted.
- 8.14 This policy shall be reviewed on a regular basis by the RIPA Monitoring Officer in conjunction with the Information Governance Manager and Legal Services to ensure it reflects current developments and changes to official guidance and codes of practice.
- 8.15 A nominated Cabinet Member will be responsible for endorsing this policy for approval by the responsible Committee. The Committee will be responsible for approving the policy and undertaking an annual review of the Council's compliance with RIPA and relevant legislation.
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9 RIPA Monitoring Officer

- 9.1 The Council's RIPA Monitoring Officer is the [Senior Responsible Officer](#)
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10 Judicial Approval & Inspection

10.1 The Council's use of directed surveillance is subject to judicial approval by the Coventry Magistrates' Court.

10.2 Ad hoc external inspections are undertaken by the OSC.

11 Document Review

11.1 The Information Governance Team has responsibility, in conjunction with other relevant departments, for coordinating the maintenance and review of this policy and supporting framework. Such reviews will take into account changes in legislation and supporting Codes of Practice and lessons learnt.

12 Notes

12.1 Enquiries regarding this policy should be directed to the Information Governance Team at infogov@coventry.gov.uk or phone: (024) 7683 3323.

Document Control:

Version History

Version	Status	Date	Author	Summary of Changes
7.0	For Approval	August 2013	J Hutchings	Initial document incorporating changes from the Protection of Freedoms Act 2000; RIPA requests from 3 rd party agencies

Reviewers

Name	Role	Business Area
A Harwood	Trading Standards Business Compliance Manager	People Directorate
H Simmonds	Head of Regulatory Services	People Directorate
C Hickin	Head of Environmental Services Public Safety & Housing	People Directorate
A Bajaj	Senior Solicitor	Resources Directorate
C Donovan	Information Governance Officer	Resources Directorate

Management Review

Name	Role	Business Area
S Brake	Assistant Director, Policy & Performance/Caldicott Guardian (RIPA Monitoring Officer & Senior Responsible Officer)	People Directorate / Chair of JIST
C Forde	Assistant Director, Legal Services	Resources Directorate
S Roach	Deputy Director, Strategy & Communities	Resources Directorate
H Abraham	Assistant Director, Democratic Services	Resources Directorate

Member Approval

Name	Date
Cllr Townshend Cabinet Meeting (Community Safety & Equalities)	5 September 2013
Audit & Procurement Committee	16 September 2013

Distribution

Name	Organisational Department	Format
All	Intranet	Word Document