

## **Regulation of Investigatory Powers Act 2000 (RIPA) Policy**

### **1.0 Extent**

This policy applies to the authorisation of directed surveillance under Section 28(1) of RIPA. This policy also applies to authorisations and notices for the purposes of obtaining communications data, under Section 22(3) and 22(4) of RIPA. This policy does not cover the authorisation of covert human intelligence sources under Section 29 of RIPA, nor does this policy cover intrusive surveillance (which the Council is not entitled to authorise under RIPA).

### **2.0 Safeguards**

- 2.1 The Council will apply a presumption in favour of overt investigation methods. The Council will always consider using a variety of overt investigatory tools, before considering whether the use of these powers is required. Covert surveillance or investigation will be used only when other reasonable options have been considered, and ruled out.
- 2.2 In order to comply with the duties in Section 28(2) of RIPA, that a person shall not grant an authorisation for the carrying out of directed surveillance unless they believe that the authorisation is “necessary” for the purposes of preventing or detecting crime punishable by a maximum term of at least 6 months imprisonment or for the purpose of preventing or detecting certain other specified offences, and “proportionate”, in accordance with the Covert Surveillance and Property Interference Code of Practice, the Council will
- balance the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence, or disorder;
  - explain how and why the methods to be adopted will cause the least possible intrusion on the target and others;
  - consider whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;
  - evidence, as far as reasonably practicable, what other methods had been considered and why they were not implemented.
- 2.3 The Council will only use covert surveillance when the problem is serious and/or persistent, and where overt surveillance would not provide evidence and/or might displace the problem elsewhere.
- 2.4 The Council will use covert surveillance proportionately, and will not use covert surveillance to address minor matters, but instead will focus on those issues which are of greatest concern to the community.

- 2.5 The Council will only use covert surveillance either to obtain evidence that can be presented at court, or where another positive outcome relating to the prevention or detection of crime as referred to above has been identified, for example through the positive identification of perpetrators.
- 2.6 The Council will give responsibilities to a single member of its Corporate Leadership Team, the City Solicitor, as Senior Responsible Officer, to ensure that designated authorising officers meet the standards required by the Office of Surveillance Commissioners.
- 2.7 The Council will ensure that the quality of authorisations is monitored by Legal Services.
- 2.8 The Council will ensure applicants and authorising officers receive an appropriate level of training.
- 2.9 The Council will ensure that in accordance with The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 as amended, directed surveillance authorisations will only be granted by 2 or 3 Heads of Service appointed from within Strategy & Resources Directorate. This will avoid any perception that a Head of Service is agreeing to “their” investigation within their own service, or is directly involved with the investigations they authorise. Authorising officers will therefore be able to apply more independently reasoned judgment of the issues. No authorisation will be put into effect until an order has been made by the Magistrates Court approving that authorisation.
- 2.10 In order to comply with the duties in Section 22(1) and 22(5) of RIPA that a designated person will not grant an authorisation or give a notice for the acquisition of communications data unless they believe this is “necessary” for the purpose of preventing or detecting crime as referred to above, and “proportionate” to what is sought to be achieved, the Council will balance the extent of the intrusiveness of the interference with an individual’s right to respect for their private life against a specific benefit to the investigation or operation being undertaken by the Council in the public interest.
- 2.11 The Council will only use powers to acquire communications data when investigating serious incidents, (such as vehicles causing nuisance within communities, and illegal advertising) and where overt investigation methods would not provide the necessary evidence.
- 2.12 In accordance with the Acquisition and Disclosure of Communications Data Code of Practice, the Council has appointed the City Solicitor as senior responsible officer, who will be responsible for the integrity of the process within the Council to acquire communications data, compliance with the relevant provisions of RIPA and the Code, oversight of the reporting of errors to IOCCO and the identification of both the cause of errors and the implementation of processes to minimise the repetition of errors, engagement with IOCCO inspectors, and overseeing the implementation of post inspection action plans.

2.13 In accordance with the Acquisition and Disclosure of Communications Data Code of Practice, the Council will not acquire communications data without using the SPoC services of NAFN, who will monitor the quality of notices and authorisations.

2.14 The Council will ensure that applicants, the designated person, and the senior responsible officer receive an appropriate level of training.

2.15 The Council will ensure that in accordance with The Regulation of Investigatory Powers (Communications Data) Order 2010 as amended, the designated person will be a “Director, Head of Service, Service Manager or equivalent”, or someone in a more senior position. The Council will ensure that the designated person is at Head of Service level as a minimum. No authorisation will be put into effect until an order has been made by the Magistrates Court approving that authorisation.

### 3.0 **Review**

3.1 This policy will be reviewed, and reports on the use of these RIPA powers will be considered on an annual basis, by Corporate Governance and Audit Committee.

