

# Surveillance Policy



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## 1. Introduction

- 1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) and related Codes of Practice, provides a regulatory framework for the authorisation of covert surveillance and other surveillance activities by public authorities. This establishes the basis for the lawful use of covert surveillance techniques during investigations, the admissibility of surveillance evidence in criminal prosecutions and the protection from legal claims and complaints where covert surveillance has been used.
- 1.2 This document sets out the London Borough of Hillingdon's Policy on the use of covert surveillance techniques within criminal investigations into offences committed against the services it administers. Where the Council considers that the use of covert surveillance techniques is required, it will at all times be guided by this policy, and follow the requirements of the following legislation, Codes of Practice and internal procedures:
  - [The Regulation of Investigatory Powers Act 2000](#) (as amended by the Protection of Freedoms Act 2012);
  - [Covert Surveillance and Property Interference - Revised Code of Practice](#);
  - [Covert Human Intelligence Sources - Revised Code of Practice](#);
  - [The Investigatory Powers Act 2016](#);
  - [Communications Data Code of Practice](#); and
  - The London Borough of Hillingdon - Surveillance Procedures.
- 1.3 This policy applies to all employees of the Council and any individual, or organisation, involved in the authorisation and/or operation of surveillance techniques covered within.

## 2. Surveillance General

- 2.1 Surveillance for the purposes of this policy includes "monitoring, observing or listening to persons, their movements, conversations or other activities and communications. It may be conducted with (or without) the assistance of a surveillance device and includes the recording of any information obtained."
- 2.2 Under RIPA the Council may authorise the use of the following surveillance activities:
  - Covert Directed Surveillance; and
  - Covert Human Intelligence Source.
- 2.3 The Council may not seek to use surveillance under RIPA unless it is seeking to detect or prevent 'serious crime' (a criminal offence punishable by 6 months or more imprisonment), or is related to the underage sale of alcohol, tobacco or nicotine inhaling products.
- 2.4 All covert surveillance authorised by the Council under RIPA is subject to the requirement for Judicial Approval in the Magistrates Court prior to surveillance being carried out.
- 2.5 The following guiding principles shall form the basis of any covert surveillance activity undertaken by the Council:
  - Surveillance activities will only be authorised where the surveillance is reasonably considered necessary to achieve the objectives of the investigation; and
  - Covert surveillance will only be authorised where it is proportionate to the matters under investigation i.e. the seriousness of the matter under investigation outweighs the right to privacy of the individual/s subject to the surveillance.

- 2.6 Definitions and descriptions of the activities set out in paragraphs 2.1 and 2.2 on page 3, including the application and authorisation procedures, and process for judicial approval, can be found within the RIPA Codes of Practice and the Surveillance Procedures as referenced at paragraph 1.2 on page 3 of this policy.

### 3. Communications Data

- 3.1 Under Chapter 3, Part 3 of the Investigatory Powers Act 2016 (IPA) and related Communications Data Code of Practice, the Council may authorise the obtaining of communications data for an 'applicable crime' purpose.
- 3.2 Applications under the IPA to obtain communications data must be made in collaboration with a National Anti-Fraud Network (NAFN) Single Point of Contact (SPOC). All applications to obtain communications data must first be notified to an officer nominated by the Borough Solicitor to verify such applications. Nominated officers are:
- Head of Counter Fraud;
  - Head of Internal Audit & Risk Assurance; and
  - Deputy Director of Exchequer & Business Assurance Services.
- 3.3 Applications under the IPA to obtain communications data do not require judicial approval. An application may only be made where it is considered necessary to an 'applicable crime' purpose under the IPA and is proportionate. All applications will be made in accordance with requirements and procedures set out by the Communications Data Code of Practice and Council's Surveillance Procedures.

### 4. Responsible Officers and Duties

- 4.1 For the purpose of this policy, the RIPA Senior Responsible Officer (SRO) is responsible for approving applications for surveillance prior to judicial approval. The SRO is the Legal Services Office Managing Partner. In the absence of the SRO, applications may be approved by the Borough Solicitor.
- 4.2 For the purpose of this policy, "applications" includes the application, review, renewal or cancellation of covert surveillance under RIPA.
- 4.3 The RIPA Monitoring Officer for the Council is the Borough Solicitor, who is responsible for maintaining a central register of all applications under RIPA.
- 4.4 The SRO will ensure the Monitoring Officer receives a copy of any applications within one week of authorisation or rejection, whilst maintaining a record of applications for the purpose of monitoring. The SRO will also notify the Leader, Chief Executive and Deputy Chief Executive of any application authorised, prior to Judicial Approval.
- 4.5 All officers involved in the application for, or authorisation of, surveillance as per paragraph 2.2 of this Policy, shall receive appropriate training for their role, which will be periodically refreshed.
- 4.6 All officers involved in the application for, or authorisation of, covert surveillance under RIPA, or acquisition of Communications Data under the IPA, will, at all times, adhere to the procedures and requirements contained within the Surveillance Procedures, RIPA Codes of Practice and Communications Data Code of Practice as per paragraph 1.2 of this Policy. Any wilful failure to comply with these requirements may lead to disciplinary proceedings under the Council's Disciplinary Policy and Procedure.

## 5. Open Source and Covert Surveillance

- 5.1 The obtaining of open source information (internet, social media) about individuals is now considered to be capable of impacting on Article 8 of the European Convention Rights; the right to a private life.
- 5.2 All officers involved obtaining or using open source information as part of any investigations, or monitoring the online activity of individuals (normally the use of social media), must have due regard to the guidance within the RIPA Codes of Practice relating to Covert Surveillance and Property Interference (Section 3 - Online Covert Activity). If in any doubt, officers should seek advice from the Borough Solicitor (RIPA Monitoring Officer) or SRO, before undertaking any activity which might fall within this section of the RIPA Codes of Practice.

## 6. Other Relevant Policies

- 6.1 Other relevant Council policies etc include:
- Counter Fraud Strategic Plan;
  - [Whistleblowing Policy](#);
  - [Corporate Investigations Protocol](#);
  - [Anti-Bribery Policy](#);
  - [Anti-Money Laundering Policy](#); and
  - [Sanctions and Prosecution Policy](#).

## 7. Review Cycle of the Surveillance Policy

- 7.1 The Council's Surveillance Policy will be updated periodically (as and when required) and be subject to a detailed review every 3 years to ensure it is up to date with best practice in this area. The next detailed review is planned for December 2021.

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