

WYRE FOREST DISTRICT COUNCIL POLICY
REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

This policy is based upon the requirements of RIPA and Home Offices Code of Practices on covert surveillance.

If any Officer is unsure about any aspect of this document they should contact as soon as possible the Head of Legal and Democratic Services for advice and assistance.

The Head of Legal and Democratic Services will maintain and check the corporate register of all RIPA authorisations reviews renewals cancellations and rejections. It is the responsibility of the relevant authorised Officer to ensure that the Head of Legal & Democratic Services receives a copy of the relevant forms within one week of authorisation, review, renewal, cancellation or rejection.

RIPA and this document are important for the effective and efficient operation of the Council's action with regard to covert surveillance. This document will be kept under 6 monthly review by the Head of Legal and Democratic Services. Any suggestions for improvement should be brought to the attention of Head of Legal & Democratic Services.

1 District Council Policy Statement

1.1 The District Council takes its statutory responsibilities seriously and will at all times act in accordance with the law and take necessary and proportionate action in these types of matters.

1.2 On 5th December 2001 the Council resolved as follows:

That pursuant to Section 30(1) of the Regulation of RIPA part 1 of the Schedule to RIPA (Description of Officers Rank and Positions) Order 2000 the following Officers (or their equivalent) being assistant Chief Officers or Officers responsible for the management of investigations be given delegated authority to authorise, renew and cancel directed surveillance in accordance with Section 28 of RIPA.

- (a) Head of Financial Services
- (b) Financial Services Manager (Accountancy & Revenues)
- (c) Benefits Manager
- (d) Principal Auditor
- (e) Head of Planning, Health and Environment
- (f) Environmental Health Manager
- (g) Pollution Control Officer.

1.3 If any of the above posts are subject to minor amendments in title or their functions are transferred to a different post, the new postholder will have delegated authority in respect of directed surveillance in place of the officer specified in paragraph 1.2 above.

2. Authorised Officer Responsibilities

- 2.1 Only the approved forms attached at Appendix 1 will be acceptable.
- 2.2 It is the responsibility of Authorised Officers who have been certified to ensure the relevant members of staff are also suitably trained as applicants so as to avoid common mistakes appearing on forms for RIPA authorisation. Authorised Officers will also ensure that staff follow the policy and do not undertake or carry out any form of surveillance without first obtaining the relevant authorisations in compliance with this document.
- 2.3 Authorised Officers must also pay particular attention to health and safety issues that may be raised by any proposed surveillance activity. Under no circumstances should an Authorised Officer approve any RIPA form unless and until they are satisfied that health and safety of Council employees and agents are suitably addressed and all the risks minimised, so far as possible and proportionate to the surveillance being processed. If any Authorised Officer is in any doubt he should obtain prior guidance from his or her Chief Officer, the District Council's Health and Safety Officer and/or the Head of Legal & Democratic Services.

3. General Information on RIPA

- 3.1 The Human Rights Act 1998 requires the District Council and any organisation working on its behalf pursuant to Article 8 of the European Convention, to respect the private and family life of citizens, his home and his correspondence.
- 3.2 The European Convention did not make this an absolute right but a qualified right. In certain circumstances the District Council may interfere in the citizen's right mentioned if such interference is
- (a) in accordance with the law;
 - (b) necessary; and
 - (c) proportionate.
- 3.3 Directly employed Council staff and external agencies working for the Council are covered by the Act for the time they are working for the Council. All external agencies must therefore comply with RIPA and the work carried out by the agencies on the Council's behalf must be properly authorised by one of the Council's designated Authorised Officers.
- 3.4 If the correct procedures are not followed evidence may be disallowed by the Courts a complaint of maladministration could be made to the Ombudsman and/or the Council could be ordered to pay compensation. Obviously such action would not promote the good reputation of the Council and would be subject to adverse press and media interest.
- 3.5 It is therefore essential that all involved with RIPA comply with the document and any further guidance issued by Head of Legal and Democratic Services.

4. What RIPA does and does not do

4.1 RIPA does:-

- require prior authorisation of directed surveillance.
- prohibit the Council from carrying out intrusive surveillance.

4.2 RIPA does not:

- make unlawful conduct which is otherwise lawful.
- prejudice or dis-apply any existing powers available to the Council to obtain information by means not involving conduct that may be authorised under this Act.

5 Types of Surveillance

5.1 Surveillance includes:

- Monitoring observing listening to persons watching or following their movements listening to their conversations and other such activities or communications;
- Recording anything mentioned above in the course of authorised surveillance;
- Surveillance by or with the assistance of appropriate surveillance devices.

5.2 Surveillance can be overt or covert:

6 Overt Surveillance

6.1 Surveillance carried out by the Council can be done overtly. There is nothing secretive or hidden about it. Surveillance will be overt if the subject has been told it will happen.

7 Covert Surveillance

7.1 Covert Surveillance is carried out in a manner calculated to ensure that the person subject to this surveillance is unaware of it taking place.

7.2 RIPA regulates two types of covert surveillance directed and intrusive.

8. Directed Surveillance

8.1 Directed surveillance is surveillance which:

is covert; and
is not intrusive surveillance.

- 8.2 It is not carried out in an immediate response to events which may otherwise make seeking authorisation under the act unreasonable for example spotting something suspicious and continuing to observe it.
- 8.3 It is undertaken for the purpose of a specific investigation or operation in a manner likely to obtain private information about an individual.
- 8.4 Private information in relation to a person includes any information relating to his private and family life his home and his correspondence. Prolonged surveillance targeted on this single person will undoubtedly result in the obtaining of private information about him or her.
- 8.5 CCTV cameras do not normally require authorisation but if the camera is tasked for a specific purpose which involved prolonged surveillance on a particular person authorisation will be required. The way a person runs his or her business may also be information about his or her private life and the private lives of others.
- 8.6 For the avoidance of doubt only those Officers designated and certified to be Authorised Officers for the purpose of RIPA can authorise directed surveillance if and only if the RIPA authorisation procedures detailed in this document are followed.

9. Intrusive Surveillance

9.1 This is when it:

- is covert;
- relates to residential premises and vehicles; and
- involves the presence of a person in the premises or in the vehicle or is carried out a surveillance device in the premises or vehicles. Surveillance equipment mounted outside the premises will not be intrusive unless the device consistently records information of the same quality and detail as might be expected if they were in the premises or vehicle.

This form of surveillance can be carried out only by Police and other law enforcement agencies. Council Officers must not carry out intrusive surveillance.

9a. Covert Human Intelligence Source (CHIS)

9a.1 This is someone who establishes or maintains a personal or other relationship for the covert purpose of obtaining information.

9a.2 RIPA does not apply in circumstances where members of the public volunteer information to the District Council as part of their normal civic duties, or to contact numbers set up to receive information.

9a.3 The conduct or use of a CHIS would be a separate issue from all of the above and would require the prior authorisation of the Chief Executive or the Head of Legal and Democratic Services. However, **such authorisation would be granted only in exceptional circumstances as the District Council has decided that it will not generally conduct or use a CHIS.**

9a.4 Carrying out test purchases will not require the purchaser to establish a relationship with the supplier with the covert purpose of obtaining information and, therefore, the purchase will not normally be a CHIS. For example, prior CHIS authorisation would not normally be required for activities carried out in the ordinary course of business (e.g. walking into a shop and purchasing a product over the counter). By contrast, developing a relationship with a person in a shop to obtain information about the seller's suppliers of an illegal product (e.g. an illegally imported product) would require authorisation as a CHIS. Similarly, using mobile, hidden recording devices or CCTV cameras to record what was going on in a shop would require authorisation as directed surveillance.

9a.5 Persons who complain about anti-social behaviour, and are asked to keep a diary, will not normally be a CHIS as they are not required to establish or maintain a relationship for a covert purpose. Recording the level of noise (e.g. the decibel level) will not normally capture private information and, therefore, does not require authorisation. Recording sound (with a Blue SOLO system or equivalent) on private premises could constitute intrusive surveillance unless it is done overtly. It is, therefore, important to inform the noise maker that sound-recording will occur if the level of noise continues. Placing a stationary or mobile video camera outside a building to record anti-social behaviour on residential estates will require authorisation.

10 Authorisation Procedures

- 10.1 Directed surveillance can only be lawfully carried out if properly authorised and in strict accordance with the terms of the authorisation.

11 Authorised Officers

- 11.1 Authorisations under RIPA are for specific investigations only and must be renewed or cancelled once specific surveillance is complete or about to expire. The authorisations do not lapse with time.

12 Application Forms

- 12.1 Only the approved RIPA forms set out in this document must be used. Any other forms will be rejected by the Authorised Officer.

13 Grounds for Authorisation

- 13.1 Directed surveillance can only be authorised by the Council on one of the following grounds:

For the prevention or detection of crime;
In the interests of public safety;
For the purpose of protecting public health;
For the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to the Government.

14 Assessing the Application Form

- 14.1 Before an Authorised Officer signs a form he or she must:
- (a) be mindful of this Policy and any other guidance issued from time to time by the Head of Legal & Democratic Services.
 - (b) Satisfy him or herself that the RIPA authorisation is:
 - (i) in accordance with the law;
 - (ii) necessary in the circumstances of the particular case on one of the grounds as mentioned above; and
 - (iii) proportionate to what it seeks to achieve.
 - (c) In assessing whether or not the proposed surveillance is proportionate, consider other appropriate means of gathering the information. The least intrusive method will be considered proportionate by the courts.
 - (d) Take into account the risk of intrusion into the privacy of persons other than the specified subject of the surveillance. Measures must be taken wherever practicable to avoid or minimise so far as possible collateral intrusion and the matter may be an aspect of determining proportionality.
 - (e) Set a date for review of the authorisation and review on only that date.
 - (f) Allocate a Unique Reference Number for the application as follows:

Year/Department/Number of Application

- (g) Ensure that any RIPA Department Register is duly completed and that a copy of the RIPA Forms and any review or cancellation of the same is forwarded to Head of Legal and Democratic Services within one week of the relevant authorisation, review, renewal, cancellation or rejection.

15 Urgent Authorisations

- 15.1 Urgent authorisations should not be necessary. In exceptional circumstances they may be given orally if the time that would elapse before written authorisation can be granted would endanger life or jeopardise the investigation or operation for which the authorisation was being given.
- 15.2 It will not be urgent where the need for authorisation has been neglected or is of the Officer's own making.
- 15.3 Urgent authorisations last for no more than 72 hours. They must be recorded in writing on the standard form as soon as practicable and the extra boxes on the form completed to explain why the authorisation was urgent.

16 Duration

- 16.1 The Form must be reviewed in the time stated and cancelled once it is no longer needed. The authorisation to carry out the surveillance lasts for a maximum of 3 months from authorisation for Directed Surveillance. However, whether the surveillance is carried out or conducted or not in the relevant period does not mean the authorisation is spent. The Forms do not expire and have to be reviewed and/or cancelled once they are no longer required.
- 16.2 Urgent authorisation if not already ratified in a written authorisation will cease to have effect after 72 hours beginning with the time when the authorisation was granted.
- 16.3 Authorisations can be renewed in writing when the maximum period has expired. The Authorising Officer must consider matters afresh including taking into account the benefit of the surveillance to date and any collateral intrusion that has occurred.

17 Working with/Through Other Agencies

- 17.1 When another agency has been instructed on behalf of the Council to undertake any action under RIPA this Policy and the Forms in it must be used as normal procedure and the agency advised or kept informed as necessary of the various requirements.
- 17.2 When some other agency for example the Police, Customs and Excise, Inland Revenue etc.,
- (a) wish to use the Council's resources (e.g. CCTV surveillance systems), that agency must use its own RIPA procedures and before any Officer agrees to allow the Council's resources to be used for the other agency's purposes he or she must obtain a copy of that agency's RIPA Form for the record a copy of which must be passed to Head of Legal and Democratic Services.
 - (b) wish to use the Council's premises for their own RIPA action, the Officer should normally co-operate unless there are security or other

good operational or managerial reasons as to why the Council's premises should not be used for the agency's activities. Suitable insurance or other appropriate indemnities may be sought if necessary from the other agency. The District Council's own RIPA form should not be used as the Council are only assisting.

- 17.3 If the Police or other agency wish to use the Council's resources for general surveillance an appropriate letter requesting the proposed use extent of remit duration who will be undertaking the general surveillance and the purpose of it must be obtained from the Police or other agency before any of the Council's resources are made available for the proposed use.

18 Record Management

- 18.1 The District Council must keep a detailed record of all authorisations renewals cancellations and rejections in Departments and a Central Register of all Authorisation Forms will be maintained and monitored by Head of Legal and Democratic Services.

19 Records maintained in the Division

- 19.1 The following documents must be retained by the relevant Chief Officer:

- A copy of the Forms 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 Authorised 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 Unique Reference Number for the authorisation

20 Central Register maintained by the Head of legal & Democratic Services

- 20.1 Authorised Officers must forward details of each Form to the Head of Legal and Democratic Services for the Central Register within 1 week of the authorisation review renewal cancellation or rejection.
- 20.2 The District Council will retain records for a period of at least 6 years from the ending of the authorisation. The Office of the Surveillance Commissions can audit/review the District Council's policies and procedures and individual authorisation.

23 Conclusion

- 23.1 Obtaining an authorisation under RIPA and following this Policy will ensure that action is carried out in accordance with the law and subject to stringent safeguards against abuse of anyone's human rights.
- 23.2 For further assistance please contact the Head of Legal and Democratic Services.

