

**EXECUTIVE SUMMARY – SURVEILLANCE POLICY (REVISION MAY 2004) – REGULATION OF INVESTIGATORY POWERS ACT 2000**








**Summary of Purpose and Recommendations:**

Revision of the Council's existing Surveillance Policy (Regulation of Investigatory Powers Act 2000) following advice from the Office of Surveillance Commissioners and to accord with recent changes in legislation.

**Cost to Council:** £2,000 (additional training only)

**Within existing budget?** Yes

**Contribution to Corporate Plan (Minor/Moderate/Major/Neutral):**

	+		-		+		-
	Moderate			<b>Priorities</b>			
	Moderate			Clean Streets and Public Space		Neutral	
		Neutral		Crime and Disorder	Moderate		
		Neutral		Housing		Neutral	
		Neutral		Managing our Finances		Neutral	

**Comments on Impacts on Corporate Objectives and Priorities:**

The Council takes seriously its responsibilities in the prevention and detection of crime. The revised RIPA Surveillance Policy ensures compliance with current Human Rights legislation in instigating covert surveillance for the purposes of detecting crime or preventing disorder.



## **SURVEILLANCE POLICY (REVISION MAY 2004) REGULATION OF INVESTIGATORY POWERS ACT 2000**

### **1. INTRODUCTION**

- 1.1 On the 2<sup>nd</sup> January 2002 Cabinet approved this Council's Surveillance Policy as determined by the Human Rights Act 1998 and the Regulation of Investigatory Powers Act 2000 (RIPA). This policy can be viewed on the Council's Intranet.
- 1.2 In December 2003, the Council received a visit from the Office of Surveillance Commissioners that culminated in an Inspection Report dated 18<sup>th</sup> December 2003 (refer to *Appendix A*). This report considers the Commissioners findings and makes recommendations for minor amendments to existing policy.  
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- 1.3 Further policy amendments were identified following the issue of Home Office "Covert Surveillance – Code of Practice" (January 2004) and legislative changes concerning Data Communications and other matters. The existing RIPA Policy has been revised accordingly. Members are asked to approve the revised policy as shown at *Appendix B*.  
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### **2. BACKGROUND**

- 2.1 The Regulation of Investigatory Powers Act 2000 imposes duties on public bodies, including local authorities, when carrying out investigations that involve covert surveillance and the conduct and use of covert human intelligence sources.
- 2.2 The policy defines those duties and further denotes those officers who have authority to make application under the Act to carry out such directed surveillance.
- 2.3 The Office of Surveillance Commissioners (OSC) has a duty to inspect those bodies that are authorised under the Act to undertake surveillance. One of their main functions of the inspection process is to enable public authorities to improve their understanding and management of covert surveillance.
- 2.4 Recent Statutory Instruments concerning Communications Data and lawful surveillance establish some changes to existing law. For example the powers to access communications data are set out in sections 21 to 25 of RIPA 2000. These were previously the domain of a select group including the police, MI5 and the Inland Revenue. They will now be extended to a total of five hundred other public bodies including local authorities. The legislation restricts access to the types of communication data depending on the nature of the body requesting it and the reason for doing so.

### **3. SURVEILLANCE COMMISSIONERS REPORT**

- 3.1 HH Mr Jeremy Fordham, Assistant Surveillance Commissioner, conducted the aforementioned inspection and the conclusion was drawn that New Forest District Council has developed both a sound structure for the RIPA authorising process and a sensible use of the statutory powers.
- 3.2 He did however make three recommendations to improve on this Council's good practice:
- Develop a formal procedure for designation (by name) of appropriate RIPA authorising officers.
  - Create a protocol governing planned and directed use of the Council's CCTV system
  - Establish a central quality control of all RIPA authorisations
- 3.3 In respect of Authorisations the Council already has a formal procedure in place as denoted by Appendix 1 of the existing policy. However, in discussions with the Assistant Surveillance Commissioner it was clear that a more restricted and focused list of named Authorised Officers was required. Appendix 1 of the revised policy defines the new list of Authorised Officers. These officers will be subject to further training to consider the revised RIPA Code of Practice and matters such as the proportionality of any surveillance action.
- 3.4 The Council's CCTV Policy has been amended to identify the requirements of RIPA 2000 and to specify procedures in the maintenance of applications from both internal and external (e.g. the Police) sources. The amendments are set out at Appendix C to this report.
- 3.5 The Council already maintains a central control of all RIPA applications. This is managed by the Council's Senior Auditor and Data Protection Officer. In the spirit of the Assistant Commissioners advice the Council's Monitoring Officer will review the centralised log on a biannual basis to ensure both consistency of approach and adherence to the relevant legislation.

### **4. FINANCIAL IMPLICATIONS**

- 4.1 There are training implications following the revision of this policy. The cost of such training can be absorbed within existing budgets.

### **5. ENVIRONMENTAL AND CRIME AND DISORDER IMPLICATIONS**

- 5.1 The Council's RIPA policy and the revisions reported herein provide a formal platform for undertaking covert surveillance in respect of the prevention and detection of crime and the prevention of disorder.

### **6. EMPLOYEE SIDE COMMENTS**

- 6.1 Employee Side are pleased that the Office of the Surveillance Commissioner (OSC) recognises the good practice already adopted by the Council and its employees. We further recognise that the revision to the existing policy is made in response to advice from the OSC and to accord with changes in legislation. Whilst these changes do not impact on employees generally it will further protect those engaged in investigatory work. Employee Side support the revised policy.

## 7. RECOMMENDATIONS

- 7.1 ***It is recommended that*** Cabinet approve the Councils revised Surveillance Policy under the Regulation of Investigatory Powers Act 2000 as appended to this report:

### For Further Information Contact:

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### Background Papers:

RIP Act 2000  
RIPA Policy (Cabinet 2/1/02)  
OSC Report (18/12/03)



Chief  
Surveillance  
Commissioner

The Rt Hon. Sir Andrew Leggatt



Office of Surveillance  
Commissioners

12 JAN 2004

Copied: Graeme,  
Steve Cranston  
Becky  
Michelle Farlane  
9 January 2004

Dear Mr Yates,

### Covert Surveillance

- 1 On 18<sup>th</sup> December 2003 one of the Assistant Surveillance Commissioners, Mr Jeremy Fordham, made a visit on my behalf to your Council. I am grateful to you for the facilities afforded to him for the purposes of the inspection, and for enabling him to discuss the matter with senior officers of the Council.
- 2 I enclose a copy of Mr Fordham's report, which I endorse. His conclusion is very creditable that the Council has developed both a sound structure for the RIPA authorising process and a sensible use of the statutory powers.
- 3 In the circumstances the recommendations, which relate to designated authorising officers, a protocol for the CCTV system, and central quality control of authorisations are undemanding in terms of time and expense. I shall be glad to learn that the Council accepts them and will proceed to implement them.
- 4 One of the main functions of review is to enable public authorities to improve their understanding and management of covert surveillance. So I hope that the Council has found the process constructive. If at any time my Office can help in any way, do not hesitate to let me know.

Yours sincerely,

Andrew Leggatt

Mr Dave Yates  
Chief Executive  
New Forest District Council  
Appletree Court  
LYNDHURST, Hampshire  
SO43 7PA

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Office of Surveillance  
Commissioners

**OFFICE OF SURVEILLANCE COMMISSIONERS  
INSPECTION REPORT**

**NEW FOREST DISTRICT COUNCIL**

**18 December 2003**

**Assistant Commissioner: HH Mr Jeremy Fordham**

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Office of Surveillance  
Commissioners

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**Inspection 18<sup>th</sup> December 2003. New Forrest District Council.**

Address: Appletree Court, Lyndhurst, Hampshire, SO43 7PA

Tel: 023 8028 5000

Chief executive: Dave Yates

Contact: Dave Yates, Chief Executive

**Overview.**

A District Council covering 285 square miles of countryside, villages and towns, including Lymington, Lyndhurst, Fordingbridge and Totton. The population is about 175,000 and Council staff number about 1600.

The Chief Executive and three Directors lead the Council management structure. Heads of Service or Assistant Directors are responsible for each of the Council services

The rank prescribed by SI 2000 No.2417 for authorisation under the Regulation of Investigatory Powers Act 2000 (RIPA) of directed surveillance and the use of covert human intelligence sources within a Local Authority is "Assistant Chief Officer, Officer responsible for the management of an investigation."

N.B. This will change on the 5<sup>th</sup> January 2004: The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003, SI 2003 No.3171, which has now been approved by Parliament, will make significant changes to this prescription.

**Inspection.**

I was able to meet Annie Righton, Assistant Director of Community Services; Steve Cranston, Audit Manager; Michael McFarlane, Senior Investigations Officer – Audit; and Julia Mutlow, Solicitor.

There has been a substantial use of the RIPA authorising power by a number of departments of the Council.

Benefit fraud investigation, and Audit investigations have generated the largest number. These areas of investigation have had the advantage of Mr. McFarlane's knowledge and experience. He has a police background and was very much involved in the drafting of Council RIPA policy and procedures at the end of 2001.

Authorisations have also been granted relating to use of the Council CCTV cameras, environmental health observations, and community safety issues.

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We discussed the wider implications presented by s.6 Human Rights Act, and the potential importance of RIPA authorisation to afford an answer to assertions of “unlawful” conduct across many fields of Council responsibility.

2. Council Cabinet has by resolution designated a number of senior officers to be RIPA authorising officers. I believe that they qualify according to the current regulatory prescription, and will do so under the new regulation mentioned above.

There is though the familiar dilemma. Some of those who qualify by rank may lack the necessary training or experience to fully appreciate the operational RIPA requirements.

In practice, a designated authorising officer must qualify in both respects if authorisations are likely to survive hostile challenge; and this requires a designating procedure that will ensure that both of these criteria are met in each case. For example: this might be achieved if a suitable senior officer of the Council, perhaps the Chief Executive or the Monitoring Officer, were to simply specify, by name, those officers who may grant RIPA authorisations.

3. In January 2002 Mr. McFarlane and Sheila Wilson, a solicitor then a member of the Council legal department, conducted a comprehensive training programme. This was coincident with the approval of a Council-wide RIPA policy. There seems, as a result, to be a good level of understanding of the legislation and its relevance among council staff.

It may be wise to plan a further training programme in the light of the significant changes that have been introduced by the Codes of Practice and the practical experience that has been gained.

Officers engaged in investigatory work have all undertaken the normal professional training, which has included RIPA content.

4. The Council is responsible for the management of city-centre CCTV systems in a number of its town centres. In normal use these systems are wholly overt; but the cameras have an obvious potential for use in planned and targeted surveillance operations.

The Council has itself made use of the cameras in this way on one occasion, and RIPA authorisation for this operation was sought. Police may also use the Council cameras for targeted operations, and will normally seek RIPA authorisation in such cases. It is well understood by the Council officers that RIPA authorisation may supply a valuable protection both to the users and to the Council.

It may though be asking too much of the camera operators to expect them to assess and judge the validity of such an authorisation, and whether it adequately protects the Council. There is in place a comprehensive Code of Practice governing the use of the CCTV cameras. But it will be wise to supplement this guidance with a written protocol specifically designed to ensure that any targeted use of cameras, whether by police or by the Council, is in fact validly authorised. This might be achieved, for example, by a simple prohibition against such use unless an appropriate senior officer of the Council confirms to operational staff that a valid RIPA authorisation is in place.

5. We discussed the possible relevance that the authorisation of covert human intelligence sources (CHIS) may have to investigations by way of “test-purchasing” techniques, and the importance that risk-assessment has in the CHIS context.

We also discussed the possible relevance of CHIS authorisation and management to cover the use of informants, perhaps falling within the general description of “whistle blowers”. The



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legislative and Code requirements designed to preserve the safety and confidentiality of an informant could be of serious practical importance here.

6. A central record of all authorisations is maintained by the Data Protection Officer. This is carefully done and includes copies of all relevant authorising documents.

What seems to be missing though is the kind of central oversight and quality control of the authorising process that can be so valuable. This is a responsibility commonly exercised within local authorities by the Monitoring Officer or Head of Legal Service and is an important safeguard against any inadvertent vulnerability in the authorising documents.

7. A comprehensive and Council-wide policy document is in place. This was drafted in December 2001 and has clearly been successful in developing and maintaining good practice.

We discussed a number of respects in which some revision is due, mainly as a result of the belated subsequent publication of the RIPA Codes of Practice.

It appears that the original Home Office form templates are currently being used for the authorising process. The more recent, and improved, Home Office templates should replace these; they are better suited to proper compliance with the Code and legislative requirements.

8. I inspected samples of the authorisations granted relating to audit and benefit fraud investigations, environmental health (dog fouling), housing management, and CCTV. In general these were exceptionally well-completed documents. They all appeared to be reasonable and well justified.

There were though some areas of potential vulnerability to hostile criticism

While "proportionality" was often mentioned, there was rarely any clear indication how it had been assessed (Code paragraph 2.5 refers).

The housing management, and CCTV authorisations might be open to challenge as to whether it was clearly indicated that the surveillance activity was "*necessary*" for any one or more of the *statutory* grounds.

There was some good comment by authorising officers in many of the documents. But evidential strength would have been improved by clear indication of *why* the activity was necessary and proportionate. (It is the authorising officers thought processes that are primarily relevant, not those of the applicant.)

9. There have been no instances involving the obtaining of legally privileged material, or of confidential information. There have been no instances where a lawyer has been the subject of investigation. There has been no dissemination of legally privileged information to an outside body.

### Conclusions.

New Forest Council deserves credit for having implemented both a sound structure for the RIPA authorising process, and a demonstrably sound and sensible use of the RIPA powers.

I think that the time has come for some revision of the structure so as to ensure full compliance with the Codes. And firm and central responsibility for oversight of quality in the process is important to ensure uniform good practice.

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**Recommendations.**

1. A formal procedure for designation (by name) of appropriate RIPA authorising officers should be created (See 1. above)
2. A protocol should be created governing planned and directed use of the Council CCTV system (See 4. above).
3. Central quality control of all authorisations should be established and maintained.

A handwritten signature in black ink, appearing to read 'J. Fordham', with a horizontal line underneath.

Jeremy Fordham

21 December 2003



## SURVEILLANCE POLICY

**Human Rights Act 1998**

**&**

**Regulation of Investigatory Powers Act 2000**

## **NEW FOREST DISTRICT COUNCIL - SURVEILLANCE POLICY REGULATION OF INVESTIGATORY POWERS ACT 2000**

### **1. BACKGROUND**

- 1.1 The Human Rights Act 1998 came into force and made the fundamental rights and freedoms contained in the European Convention on Human Rights enforceable in UK Courts and Tribunals.
- 1.2 Article 8 of the Convention Rights contains the right to respect for a person's private and family life.
- 1.3 The Regulation of Investigatory Powers Act 2000 (RIPA) imposes duties on public bodies, including local authorities, when carrying out investigations that involve covert surveillance and the conduct and use of covert human intelligence sources.
- 1.4 The right under Article 8 relating to respect for a person's private and family life is a right that may be interfered with. Such interference must be in accordance with the law and necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of the health or morals, or for the protection of the rights and freedoms of others.
- 1.5 Investigating officers of the Council engage in covert surveillance from time to time which interferes with the persons right under Article 8 of the Convention Rights to respect for the person's private and family life.
- 1.6 A policy has been prepared to set out the relevant responsibilities and to ensure that any covert surveillance or the conduct and use of covert human intelligence sources is conducted by officers in a manner that will comply with the safeguards embodied in the Human Rights Act 1998 and RIPA. Pursuance of this policy will assist the Council if it is required at any time to demonstrate that it has acted lawfully.

### **2. DEFINITIONS:**

#### **2.1 Surveillance**

Surveillance includes:

- monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications
- recording anything monitored, observed or listened to in the course of surveillance and
- surveillance by or with the assistance of a surveillance device.

#### **2.2 Covert Surveillance**

Covert surveillance is surveillance carried out in a manner calculated to ensure that subjects of it are unaware that it is or may be taking place. Covert

surveillance involves the systematic surveillance of an individual. The everyday functions of law enforcement will not usually involve covert surveillance. This policy applies only to covert surveillance.

### **2.3 Directed Surveillance**

Directed surveillance is covert but not intrusive and is undertaken:

- For the purposes of a specific investigation or a specific operation
- In such a manner as is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation) and
- Otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation to be sought for the carrying out of the surveillance.

Directed surveillance is the type of surveillance with which officers of the Council may be involved.

### **2.4 Intrusive surveillance**

Intrusive surveillance would involve the presence of an officer in a residence where activities are being investigated or in a private vehicle, or use of a surveillance device in such residence or vehicle.

Officers of the Council do not engage in intrusive surveillance and there is no power under RIPA for this Council's officers to engage in intrusive surveillance.

### **2.5 Communications Data**

Any traffic data comprised in or attached to a communication (whether by the sender or otherwise) for the purposes of any postal service or telecommunications system by means of which it is being or may be transmitted.

### **2.6 The Conduct and use of covert human intelligence sources**

The conduct and use of covert human intelligence sources would amount to the use of an informant and the officer responsible for the use of the informant would be required to take measures to safeguard their safety and well being.

Officers of the Council do on rare occasions engage in the conduct and use of covert human intelligence sources.

### **2.7 CCTV**

The council operates a close circuit television system within certain towns in the New Forest District. Use of this system by the council or third parties such as the police for directed surveillance would also require an authorised application.

### **3. AUTHORISATIONS**

- 3.1 Authorisation is required for the use of directed surveillance, the conduct and use of covert human intelligence sources and the obtaining of Communications Data for the council not to be subject of a challenge under the Human rights Act.
- 3.2 Each officer that undertakes investigations on behalf of the Council shall seek authorisation in writing for any directed surveillance the conduct and use of any covert human intelligence sources and the obtaining of Communications Data.
- 3.3 With regard to Authorisation of Communications Data, the council will appoint a designated officer(s) to act as the single point of contact (Spoc) who will be registered with the Home Office to enable requests to be made with Communications Data providers.
- 3.4 Section 11 of the Council's CCTV code of practice covers the use of CCTV for directed surveillance and states that a CCTV operator will only carry out such surveillance, having received written confirmation that a valid RIPA authorisation is in existence or will be obtained retrospectively.

### **4. STANDARD FORMS**

- 4.1 Standard forms are provided to assist the officer making the application for authorisation and to assist the authorising officer.
- 4.2 The authorisation shall be sought using the standard forms as amended from time to time.
- 4.3 The authorising officers and the functions for which they are authorised are set out in **Appendix 1**.
- 4.4 The authorising officer shall satisfy him or herself that authorisation is necessary and proportionate.
- 4.5 Authorisation can only be given on the following grounds as set out in Statutory Instruments 2003/3071 & 2003/3072.
  - (a) For the purposes of prevention or detection of crime.
  - (b) Prevention of disorder;
- 4.6 Whether the directed surveillance or the conduct and use of any covert human intelligence sources is "proportionate" to what is sought to be achieved by the activity will depend on
  - (a) The reasons for it being sufficient and adequate.
  - (b) There being no other reasonable means of obtaining the information sought.
  - (c) The surveillance being essential to the investigation.
  - (d) The likely value of the surveillance.
  - (e) The type of surveillance action proposed being the least intrusive measure and no more than is necessary.
  - (f) Lasting for an appropriate period of time and no more.



(g) The level of risk of intrusion against others. (collateral Intrusion)

- 4.7 The authorising officer shall consider the risk of collateral intrusion and whether a separate authorisation is required for any collateral intrusion on or interference with the privacy of persons other than the subject(s) of directed surveillance.
- 4.8 If any collateral intrusion is likely where there are special sensitivities, for example, in cases of premises used by lawyers or for any form of medical or professional counselling or therapy, the authorising officer shall be the Chief Executive, or the Directors named in Appendix 1.
- 4.9 If the directed surveillance or the conduct and use of any covert human intelligence sources is likely to result in the acquisition of confidential material the authorising officer, when considering the application shall assess how likely it is that confidential material will be acquired.
- 4.10 Applications in which the directed surveillance is likely to result in the acquisition of confidential material will only be considered in exceptional and compelling circumstances with full regard to the proportionality issues this raises.
- 4.11 Where the likely consequence of the directed surveillance would be for any person to acquire knowledge of confidential material, the authorising officer shall be the Chief Executive, or the Directors named in Appendix 1.
- 4.12 The authorising officer shall give the fullest consideration to any cases where the subject of the surveillance might reasonably expect a high degree of privacy, for instance in his or her home.
- 4.13 The Code of Practice pursuant to Section 71 of The Regulation of Investigatory Powers Act 2000 must be taken into account and is reflected in this policy document.

## **5. ACTIVITIES BY OTHER PUBLIC AUTHORITIES**

- 5.1 The application officer shall make enquiries of other public authorities whether they are carrying out similar activities if he considers that there is such a possibility in order to ensure that there is no conflict between the activities of this Council and those other public authorities.

## **6. JOINT INVESTIGATIONS**

- 6.1 Each officer of the Council who carries out any investigation in conjunction with another public authority such as:
- the Department of Work and Pensions.
  - the Environment Agency
  - the Food Standards Agency or
  - the Health and Safety Executive

shall obtain a copy of such authorisation that exists for that public authority to carry out surveillance.

## **7. DATA PROTECTION**

- 7.1 Authorising officers shall ensure that there is compliance with the appropriate data protection requirements and the Council's policies and practices in the handling and storage of material.

## **8. DESTRUCTION OF WHOLLY UNRELATED MATERIAL**

- 8.1 Where material is obtained by directed surveillance which is wholly unrelated to a criminal or other investigation or to any person who is the subject of the investigation, it must be destroyed immediately, but not if civil or criminal proceedings are contemplated. Where court proceedings are contemplated, all material is potentially relevant and must be retained and will be disclosed in the usual way.
- 8.2.1 The applicant officer shall, if appropriate, seek authority to destroy any wholly unrelated material where there will be no court proceedings.

## **9. CONFIDENTIAL MATERIAL**

- 9.1 Investigating officers shall be alert to anything that may be confidential material. Where there is doubt, advice must be sought from a legal adviser before further dissemination of the material takes place.
- 9.2 Confidential material shall not be retained or copied unless it is necessary for a specified purpose.
- 9.3 Confidential material shall be disseminated only where an appropriate officer (having sought advice from a legal adviser) is satisfied that it is necessary for a specific purpose.
- 9.4 The retention or dissemination of such information shall be accompanied by a clear warning of its confidential nature. Reasonable steps shall be taken to safeguard the material against it becoming available, or its contents being known, to any person whose possession of it might prejudice any criminal or civil proceedings related to the information.
- 9.5 Confidential material shall be destroyed as soon as it is no longer necessary to retain if for a specified purpose.

## **10. TRAINING**

- 10.1 Each officer of the Council with responsibilities for the conduct of an investigation, operation or authorisation under RIPA, will undertake training to ensure that any such investigations, operations and authorisations undertaken are conducted according to the Code of Practice.

## **11. REVIEW OF APPLICATIONS, RENEWALS AND CANCELLATIONS**

- 11.1 The authorising officer shall, while any authorisation has effect, review the authorisation and any renewal at such interval(s) as he/she shall determine.
- 11.2 The Data Protection Officer shall, after the cancellation of the surveillance, review the cancellation of any authorisation or any renewal at such interval(s) as he shall determine. This review will take into account any subsequent action by the Council arising from the produce of the surveillance, which may be in the form of the issue of notices, orders, or determinations by the Council, or the bringing of criminal or civil proceedings, or any other action.
- 11.3 The Data Protection Officer shall record the review that he has undertaken and the date on which it was carried out by signing and dating the cancellation of the authorisation or any renewal
- 11.4 The Data Protection Officer shall seek advice from Legal services if necessary in connection with any aspect of his monitoring function.

## **12. CENTRAL RECORD**

- 12.1 Copies of the following documents that set out the powers and duties of officers in connection with such authorisations shall be kept by each service in a centrally accessible place:
- The Regulation of Investigatory Powers Act 2000
  - The Regulation of Investigatory Powers (Prescription of Offices, Ranks and Positions) Order 2000 (SI 2000/2417)
  - The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003 (SI 2003/3171)
  - The Regulation of Investigatory Powers (Communications Data) Order 2003 (SI2003/3172)
  - The Code of Practice

## **13. RECORDS OF AUTHORISATIONS**

- 13.1 Each service shall keep a written record of each of the following authorisations made by an authorisation officer for the service:
- Application for authorisation for directed surveillance or for the conduct or the use of a covert human intelligence source
  - Renewal of such authorisation
  - Cancellation of such authorisation
  - Destruction of wholly unrelated material obtained from authorised directed surveillance or from the conduct or the use of a covert human intelligence source
- 13.2 Each applicant officer shall provide a copy of any application for authorisation, renewal, or cancellation, or destruction of documents form to the Data Protection Officer, who will maintain the Council's Central record of directed

surveillance or of the conduct or the use of a covert human intelligence source.

- 13.3 The written records shall be confidential and shall be kept secure.
- 13.4 The written records shall be retained for a minimum of five years from the ending of the authorisation and where there are pending or future criminal or other proceedings the written records shall be retained for a suitable further period.

#### **14. MONITORING**

- 14.1 The Head of Legal Services, as the Council's Monitoring Officer will have responsibility for overseeing the authorising process to ensure good quality control of the procedures and will liaise with the Data Protection Officer on a 6 monthly basis to achieve this.

#### **15. DISCLOSURE**

- 15.1 The produce obtained during the course of an investigation that might be relevant to that or another investigation or pending or future civil or criminal proceedings shall not be destroyed, but retained and disclosed pursuant to the Criminal Procedure and Investigations Act 1996 as unused prosecution material gained in the course of an investigation, or which may be relevant to an investigation.

(AS AMENDED AT CABINET ON 02/06/04)

## APPENDIX 1

## REGULATION OF INVESTIGATORY POWERS ACT 2000

FUNCTIONS THAT MAY BE UNDERTAKEN BY THE AUTHORISED OFFICERS  
(REVISED MAY 2004):

1. Authorise an **application** for authority to carry out directed surveillance or for the conduct or the use of a covert human intelligence source
2. Authorise **renewal** of an application for authority to carry out directed surveillance or for the conduct or the use of a covert human intelligence source
3. Authorise **cancellation** of an application for authority to carry out directed surveillance or for the conduct or the use of a covert human intelligence source
4. Authorise **destruction** of wholly unrelated material arising from surveillance or from the conduct or the use of a covert human intelligence source
5. **Monitor** the produce of the surveillance or from the conduct or the use of a covert human intelligence source
6. Authorise an application where the likely consequence of directed surveillance would be intrusion on another person other than the target (**collateral intrusion**) and this **at specially sensitive premises** (used by lawyers or for any form of medical or professional counselling or therapy)
7. Authorise an application where the likely consequence of the directed surveillance would be for the applicant officer to acquire knowledge of **confidential material**.
8. Authorise the obtaining of **Communications data**.
9. Act as the single point of contact in respect of **Communications Data**.

AUTHORISED OFFICERS	RANK	FUNCTIONS UNDERTAKEN BY THE AUTHORISED OFFICER 10.03.04
Dave Yates	Chief Executive	1 - 7
Chris Malyon	Director of Resources	1 - 7
Patricia Higgins	Assistant Director (Financial Services)	1 - 8
Nick Gibbs	Director of Community Services	1 - 7
Dave Brown	Assistant Director (Housing Landlord Services)	1 - 7
Annie Righton	Assistant Director (Environmental Health)	1 - 7
Chris Elliott	Head of Development Control	1 - 7
Janet Clarke	ICT Security Officer	9
Rebecca Drummond	Senior Auditor and Data Protection Officer	9

## CODE OF PRACTICE

### SECTION 11 – RIPA AND CCTV

#### 11.1 Guiding Principles

11.1.1 CCTV operators will not carry out any directed surveillance\*, unless they have received written confirmation from the System Manager or a Police Officer that a valid RIPA authorisation is in place or that such an authorisation will be applied for retrospectively.

11.1.2 The CCTV operator shall notify the System Manager of any written confirmation received from the police and the System Manager shall ensure that copies of written confirmations are retained.

11.1.3 Retention of such written confirmations shall be in accordance with the Council's procedures for retention of other RIPA documentation. The procedure for such retention is defined at paragraph 13 of the Council's Surveillance Policy (Appendix G).

\* "Directed surveillance" is defined in the Council's Surveillance Policy, a copy of which may be found at Appendix G of this Code of Practice