



ASHFIELD DISTRICT COUNCIL
REGULATION OF INVESTIGATORY POWERS
ACT 2000 (RIPA)
POLICY AND GUIDANCE

Proposed: 03 February 2017

Approved: 20 February 2017

- Deleted: ¶
¶
- Deleted: Approved
- Deleted: 12 December 2013

CONTENTS

1. Policy
2. Guidance
3. Appendix A – List of Authorising Officers
4. Appendix B – Flowchart
5. Appendix C – Links to Home Office - Forms
6. Appendix D – Links to Home Office - Codes of Practice
7. Appendix E – Links to Home Office – Guidance for Application at the Magistrates' Court.

Approved: ~~XX~~

Cabinet Minute Reference: ~~XX~~

Delegated Decision Reference:

Deleted: A

Deleted: B

Deleted: C

Deleted: D

Commented [K1]: Date to be inserted

Deleted: 12 December 2013

Commented [K2]: To be inserted

Deleted: CA.70

ASHFIELD DISTRICT COUNCIL
POLICY ON REGULATION OF INVESTIGATORY
POWERS ACT 2000 (RIPA)

Ashfield District Council only carries out covert surveillance where such action is justified and endeavours to keep such surveillance to a minimum. It recognises its obligation to comply with RIPA when such an investigation is for one of the purposes set out in that Act and has produced [this Guidance](#) document to assist officers undertaking this type of work (“Authorising” and “Investigating Officers”).

Deleted: a

Applications for authority

A Chief Officer authorised by the Council (an “Authorising officer”) will consider all applications for authorisation in accordance with RIPA – [See appendix A for a list of Authorising Officers](#).

Deleted: a

Any incomplete or inadequate application forms will be returned to the applicant for amendment.

The authorising officer shall in particular ensure that:-

Deleted:

- There is a satisfactory reason for carrying out the surveillance
- The serious crime threshold is met
- The covert nature of the investigation is necessary
- Proper consideration has been given to collateral intrusion
- The proposed length and extent of the surveillance is proportionate to the information being sought
- [Authorisation from the Head of Paid Service \(Chief Executive\)](#) is sought where confidential legal/journalistic/medical/spiritual welfare issues are involved
- The authorisations are reviewed and cancelled
- Records of all authorisations are sent to the [Principal Solicitor](#) for entry on the Central Register

Deleted: Deputy Chief Executive's

Deleted: authorisation

Deleted: Assistant Chief Executive (Governance)

Once authorisation has been obtained from the Authorising officer, the Authorising Officer or his/her nominee ([e.g. investigating officer](#)) will attend the Magistrates' Court in order to obtain Judicial approval for the authorisation. [See flowchart at appendix B](#).

Deleted: a

Deleted: j

Formatted: Font: Bold

Training

Each Authorising Officer shall be responsible for ensuring that relevant members of staff within their Directorate are aware of the Act's requirements.

Deleted: Chief

The Shared Legal Service will provide advice and regular updates as well as specific training upon request.

Central register and records

The Principal Solicitor shall retain the Central Register of all authorisations issued by Ashfield District Council.

Deleted: Assistant Chief Executive (Governance)

The Assistant Chief Executive (Governance) & Monitoring Officer, in conjunction with the Principal Solicitor, will monitor the content of the application forms and authorisations to ensure that they comply with the Act.

Deleted:

Senior Responsible Officer ("SRO")

The SRO is a role required by the Office of the Surveillance Commissioner ("OSC") with oversight of the Council's use of RIPA powers. The SRO is the Assistant Chief Executive (Governance) & Monitoring Officer who will only act as an Authorising Officer for the Council in exceptional circumstances to avoid any conflicts with the SRO role.

RIPA Coordinating Officer

The RIPA Co-ordinating Officer has the responsibility for the day-to-day RIPA management and administrative processes observed in obtaining an authorisation and advice thereon and this role is performed by the Principal Solicitor.

REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

GUIDANCE

DIRECTED SURVEILLANCE AND COVERT HUMAN INTELLIGENCE SOURCE

1. Purpose

The purpose of this guidance is to explain

- the scope of RIPA – Part II;
- the circumstances where it applies; and
- the authorisation procedures to be followed

2. Introduction

2.1 This Act, which came into force in 2000, is intended to regulate the use of investigatory powers exercised by various bodies including local authorities, and ensure that they are used in accordance with human rights. This is achieved by requiring certain investigations to be authorised by an appropriate officer and approved by the judiciary before they are carried out.

2.2 The investigatory powers, which are relevant to a local authority, are directed covert surveillance in respect of specific operations involving criminal offences that are either punishable, whether on summary conviction or indictment, by a maximum term of at least 6 months imprisonment or are related to the underage sale of alcohol and tobacco and the use of covert human intelligence sources (CHIS). The Act makes it clear for which purposes they may be used, to what extent, and who may authorise their use. There are also Codes of Practice in relation to the use of these powers and the Home Office web site link for these is at **Appendix C and D.**

2.3 Consideration must be given, prior to authorisation as to whether or not the acquisition of private information is necessary and proportionate, i.e. whether a potential breach of a human right is justified in the interests of the community as a whole, or whether the information could be obtained in other ways.

Deleted: gleaned

3. Scrutiny and Tribunal

3.1 External

3.1.1 As of 01 November 2012, the Council must obtain an order from a Justice of the Peace approving the grant or renewal of any authorisation for the use of directed surveillance or CHIS before the authorisation can take effect and the activity is carried out. The Council can only appeal a decision of the Justice of the Peace on a point of law by judicial review.

Deleted: T

3.1.2 The Office of Surveillance Commissioners (OSC) was set up to monitor compliance with RIPA. The OSC has “a duty to keep under review the exercise and performance by the relevant persons of the powers and duties under Part II of RIPA”, and the Surveillance Commissioner will from time to time inspect the Council’s records and procedures for this purpose.

3.1.3 In order to ensure that investigating authorities are using the powers properly, the Act also establishes a Tribunal to hear complaints from persons aggrieved by conduct, e.g. directed surveillance. Applications will be heard on a judicial review basis. Such claims must be brought no later than one year after the taking place of the conduct to which it relates, unless it is just and equitable to extend this period.

3.1.4 The Tribunal can order:

- Quashing or cancellation of any warrant or authorisation;
- Destruction of any records or information obtained by using a warrant or authorisation;
- Destruction of records or information held by a public authority in relation to any person.

3.1.5 The Council has a duty to disclose to the tribunal all documents they require if any Council officer has:

- Engaged in any conduct as a result of such authorisation;
- Any authorisation under RIPA.

3.2 **Internal Scrutiny**

3.2.1 The Council will ensure that ~~the~~ Senior Responsible Officer ~~is~~ responsible for:

- The integrity of the process in place within the public authority to authorise directed surveillance;
- Compliance with part II of the 2000 Act, Part III of the 1997 Act and with the accompanying Codes of Practice;
- Engagement with the Commissioners and Inspectors when they conduct their inspections; and
- Where necessary, overseeing the implementation of any post-inspection action plans recommended or approved by a Commissioner.

Deleted: an authorising officer is appointed as a

Deleted:

Deleted: who

3.2.2 The Elected Members of the Council (“Cabinet”) will ~~receive updates on the~~ use of the Act ~~at least once a year~~ and ~~set/review~~ the Council’s policy and guidance documents ~~where necessary~~. They will also consider internal reports on use of the Act ~~where necessary~~ to ensure that it is being used consistently with the Council’s policy and that the policy remains fit for purpose. They should not, however, be involved in making decisions on specific authorisations.

Deleted:

Deleted: review

Deleted: the Authority

Deleted: 's

Deleted:

Deleted: at least once a year

Deleted: on at least a quarterly basis

3.3 Unauthorised Activities

3.3.1 If an Officer is concerned that surveillance/CHIS activity is taking place and there is no authorisation under RIPA, he/she should notify the Assistant Chief Executive (Governance) & Monitoring Officer immediately.

3.3.2 If any activity is deemed to be unauthorised, it will be reported to the OSC.

4. Benefits of RIPA authorisations

- 4.1 The Act states that if authorisation confers entitlement to engage in a certain conduct and the conduct is in accordance with the authorisation, then it will be lawful for all purposes. Consequently, RIPA provides a statutory framework under which covert surveillance activity can be authorised and conducted compatibly with Article 8 of the Human Rights Act 1998 – a person's right to respect for their private and family life, home and correspondence.
- 4.2 Material obtained through properly authorised covert surveillance is admissible evidence in criminal proceedings.

5. Definitions

- 5.1 'Covert' is defined as surveillance carried out in such a manner that is calculated to ensure that the person subject to it is unaware that it is or may be taking place. (s.26 (9)(a))
- 5.2 'Covert human intelligence source' (CHIS) is defined as a person who establishes or maintains a personal or other relationship with a person for the covert purpose of obtaining/providing access to/ disclosing, information obtained through that relationship or as a consequence of the relationship. (s.26 (8))
- 5.3 'Directed surveillance' is defined as covert but not intrusive and undertaken:
- for a specific investigation or operations;
 - in such a way that is likely to result in the obtaining of private information about any person;
 - other than by way of an immediate response (s.26 (2)).
- 5.4 'Private information' includes information relating to a person's private or family life but has a wide meaning, not excluding business or professional activities.
- 5.5 'Intrusive' surveillance is covert surveillance that is carried out in relation to anything taking place on any residential premises or in any private vehicle and involves the presence of an individual on the premises or in the vehicle or using a surveillance device. **Ashfield District Council may not authorise such surveillance.**

Deleted: ¶

5.6 'Authorising officer' in the case of local authorities these are specified as Assistant Chief Officers (and more senior officers), Assistant Heads of Service, Service Managers or equivalent, responsible for the management of an investigation (see Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (SI 2010/521)). Ashfield District Council has appointed the Chief Executive, Deputy Chief Executive, and Service Directors as "authorising officers". Please refer to appendix A for a list of Authorising Officers for Ashfield District Council.

Deleted: Assistant Chief Executive (Governance)

6. When does RIPA apply?

6.1 Where the directed covert surveillance of an individual or group of individuals, or the use of a CHIS, **is necessary for the purpose of preventing or detecting crime or of preventing disorder.**

6.2 The Council can only authorise **Directed Surveillance** to prevent and detect conduct which constitutes one or more criminal offences. The criminal offences must be punishable, whether on summary conviction or indictment, by a maximum term of at least 6 months imprisonment or be an offence under:

- a) S.146 of the Licensing Act 2003 (sale of alcohol to children);
- b) S.147 of the Licensing Act 2003 (allowing the sale of alcohol to children);
- c) S.147A of the Licensing Act 2003 (persistently selling alcohol to children);
- d) S.7 of the Children and Young Persons Act 1933 (sale of tobacco, etc, to persons under eighteen).

6.3 CCTV

The normal use of CCTV is not usually covert because members of the public are informed by signs that such equipment is in operation. However, authorisation should be sought where it is intended to use CCTV covertly and in a pre-planned manner as part of a specific investigation or operation to target a specific individual or group of individuals. Equally a request, say by the police, to track particular individuals via CCTV recordings may require authorisation (from the police).

The Council's CCTV is managed by Newark and Sherwood District Council.

6.4 Online Covert Activity

Reviewing open source sites do not require authorisation unless the review is carried out with some regularity, usually when creating a profile, in which case directed surveillance authorisation will be required. If it becomes necessary to breach the privacy controls and become, for example, a “friend” on the Facebook site, with the investigating officer utilising a false account concealing his/her identity as a Council Officer for the purposes of gleaning intelligence, this is a covert operation intended to obtain private information and should be authorised, at a minimum, as directed surveillance. If the investigator engages in any form of relationship with the account operator then the investigator becomes a CHIS requiring authorisation as such and management by a Controller and Handler with a record being kept and a risk assessment created.

Where the serious crime threshold is not met in relation to an investigation, surveillance of social media sites could amount to a breach of an individual's Article 8 rights for which there is no protection offered by RIPA. Officers using social media sites as part of an investigation should seek advice from the Shared Legal Team as to when an authorisation for directed surveillance or CHIS would be required.

7. **Covert Human Intelligence Source**

7.1 Put simply, this means the use of members of the public, undercover officers or professional witnesses to obtain information and evidence.

7.2 The RIPA definition (section 26) is anyone who:

- a) establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraphs b) or c);
- b) covertly uses such a relationship to obtain information or provide access to any information to another person; or
- c) covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship.

Any reference to the conduct of a CHIS includes the conduct of a source which falls within a) to c) or is incidental to it.

References to the use of a CHIS are references to inducing, asking or assisting a person to engage in such conduct.

7.3 Section 26(9) of RIPA goes on to define:

- a) a purpose is covert, in relation to the establishment or maintenance of a personal or other relationship, if, and only if, the relationship is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of that purpose; and
- b) a relationship is used covertly, and information obtained as mentioned in s 26(8) (c) above and is disclosed covertly, if, and only if it is used or as the case may be, disclosed in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the use or disclosure in question.

7.4 With any authorized use of a CHIS, the Council must ensure that arrangements are in place for the proper oversight and management of the CHIS, this includes appointing individual officers as Handlers and Controllers in relation to the CHIS (s.29(5)(a) and (b)).

7.5 There is a risk that an informant who is providing information to the Council voluntarily may in reality be a CHIS even if not tasked to obtain information covertly. It is the activity of the CHIS in exploiting a relationship for a covert purpose which is ultimately authorised in the 2000 Act, not whether or not the CHIS is asked to do so by the Council. When an informant gives repeat information about a suspect or about a family and it becomes apparent that the informant may be obtaining the information in the course of a neighbourhood or family relationship, it may mean that the informant is in fact a CHIS. Legal advice should always be sought in such instances before acting on any information from such an informant.

7.6 Detailed advice regarding applications for use of a CHIS are set out at paragraph 8.1.6 below. In the event that the use of CHIS is considered, the Principal Solicitor must be consulted before any steps are taken to engage the CHIS.

Deleted: 5

Deleted: Assistant Chief Executive (Governance)

7.7 Juvenile Sources

Deleted: 6

Special safeguards apply to the use or conduct of juvenile sources; that is sources under the age of 18 years. On no occasion should the use or conduct of a source under the age of 16 years be authorised to give information against his parents or any person who has parental responsibility for him. The duration of a juvenile CHIS is **one** month. The Regulation of Investigatory Powers (Juveniles) Order 2000 SI No. 2793 contains special provisions which must be adhered to in respect of juvenile sources. Any authorisation of a juvenile CHIS must be made by the Head of Paid Service (Chief Executive) or an Officer authorised on his behalf.

7.8. **Vulnerable Individuals**

Deleted: 7

A vulnerable individual is a person who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of himself, or unable to protect himself against significant harm or exploitation. Any individual of this description should only be authorised to act as a source in the most exceptional circumstances. Any authorisation of a juvenile CHIS must be made by the Head of Paid Service (Chief Executive) or an Officer authorised on his behalf.

8. **Authorisations (see flowchart at Appendix A)**

8.1 **Applications for directed surveillance**

8.1.1 All application forms must be completed fully with all the required details to enable the authorising officer to make an informed decision.

Deleted: (see Appendix B) must be fully completed

An authorisation provides for one period of Directed Surveillance lasting three months. If a proposed operation is expected to be completed in a shorter timeframe, the authorisation will still last for three months but an appropriately early review should be carried out and, if the operation is no longer necessary or proportionate the authorisation should be cancelled.

Officers should ensure they are using the most up-to-date forms for RIPA Authorisations. Application forms are available on the Home Office website:

<https://www.gov.uk/government/collections/ripa-forms--2>

No authorisation shall be granted unless the authorising officer is satisfied that the investigation is:

- **Necessary** for the purpose of preventing or detecting crime. It must be a criminal offence punishable whether summarily or on indictment by a maximum sentence of at least 6 months imprisonment or related to the underage sale of alcohol or tobacco (see para 6);
- **Proportionate to the ultimate objective.** This has 3 elements, namely, (1) that the method of surveillance proposed is not excessive to the seriousness of the matter under investigation, (2) the method used must be the least invasive of the target's privacy, (3) the privacy of innocent members of the public must be respected and collateral intrusion minimised (see 8.1.2).
- **Collateral Intrusion** i.e. intrusion on, or interference with, the privacy of persons other than the subject of the investigation and consider/assess the risk;
- **No other form of investigation would be appropriate.**

Deleted: n

Deleted: the reason listed above in paragraph 6

Deleted: p

Deleted: ;¶
<#>at an appropriate level (i.e. not excessive); and¶
n

N.B.:

Necessity: Covert surveillance cannot be said to be necessary if the desired information can reasonably be obtained by overt means. It must also be necessary for the purpose of preventing or detecting conduct which constitutes one or more criminal offences as set out in paragraph 6 above.

Proportionality: The method of surveillance proposed must not be excessive in relation to the seriousness of the matter under investigation. It must be the method which is the least invasive of the target's privacy.

Collateral intrusion, which affects the privacy rights of innocent members of the public, must be minimised and use of the product of the surveillance carefully controlled so as to respect those rights.

The grant of authorisation should indicate that consideration has been given to the above points. Advice should be obtained from the Shared Legal Service where necessary.

Deleted: The grant of authorisation should indicate that consideration has been given to the above points.¶

- 8.1.2 The authorising officer must also take into account the risk of '**collateral intrusion**'. The application must include an **assessment** of any risk of collateral intrusion for this purpose.

Steps must be taken to avoid unnecessary collateral intrusion and minimise any necessary intrusion.

Those carrying out the investigation must inform the authorising officer of any unexpected interference with the privacy of individuals who are not covered by the authorisation, as soon as these become apparent.

Where such collateral intrusion is unavoidable, the activities may still be authorised, provided this intrusion is considered proportionate to what is sought to be achieved.

The Authorising Officer should also fully understand the capabilities and sensitivity levels of any equipment being used to carry out directed surveillance so as to properly assess the risk of collateral intrusion in surveillance techniques.

Deleted: i.e. intrusion on, or interference with, the privacy of persons other than the subject of the investigation

8.1.3 **Special consideration in respect of confidential information**

Particular attention is drawn to areas where the subject of surveillance may reasonably expect a high degree of privacy, e.g. where confidential information is involved.

Confidential information consists of matters subject to legal privilege, communication between members of Parliament and another person on constituency matters, confidential personal information or confidential journalistic material. (ss 98-100 Police Act 1997).

Legal privilege

Generally, this applies to communications between an individual and his/her legal adviser in connection with the giving of legal advice in connection with or in contemplation of legal proceedings. Such information is unlikely ever to be admissible as evidence in criminal proceedings.

If in doubt, the advice of the Assistant Chief Executive (Governance) or the Principal Solicitor should be sought in respect of any issues in this area.

Confidential personal information

This is oral or written information held in (express or implied) confidence, relating to the physical or mental health or spiritual counselling concerning an individual (alive or dead) who can be identified from it. Specific examples provided in the codes of practice are consultations between a health professional and a patient, discussions between a minister of religion and an individual relating to the latter's **spiritual welfare** or matters of **medical or journalistic confidentiality**.

Confidential journalistic material

This is material acquired or created for the purposes of journalism and held subject to an undertaking to hold it in confidence.

It should be noted that matters considered to be confidential under RIPA may not necessarily be properly regarded as confidential under section 41 Freedom of Information Act 2000.

In such cases, where it is likely that knowledge of confidential information will be acquired, the use of covert surveillance is subject to a higher level of authorisation and therefore may only be authorised by the Head of Paid Service (Chief Executive) or an officer authorised by him for this purpose. Authorisation can only be granted where there are exceptional and compelling circumstances that make the authorisation necessary.

Deleted: Deputy

Deleted: ..

8.1.4 Notifications to Inspector/Commissioner

The following situations must be brought to the Inspector/Commissioner's attention at the next inspection:

- Where an officer has had to authorise surveillance in respect of an investigation in which he/she is directly involved;
- Where a lawyer is the subject of an investigation or operation;
- Where confidential personal information or confidential journalistic information has been acquired and retained.

8.1.5 Applications for CHIS

Applications for CHIS are made in the same way as for directed surveillance except that the serious crime threshold of investigating criminal offences with a sentence of at least 6 months in imprisonment does not apply. The authorisation must specify the activities of the CHIS and that the authorised conduct is carried out for the purposes of, or in connection with, the investigation or operation so specified.

The ~~Authorising Officer must be satisfied that the~~ use of a CHIS ~~has been risk assessed and is proportionate to what is sought to be achieved b that use and it must be necessary for the prevention and/or detection of crime.~~

Deleted: must be

A record must be kept of the matters mentioned in s29(5) and the Source Records Regulations (SI 2000/2725). The Magistrate must be satisfied that the provisions of section 29(5) have been complied with.

Section 29(5) requires:

Formatted: Indent: Left: 0 cm, First line: 1.27 cm

- "(a) ___ that there will at all times be a person holding an office, rank or position with the relevant investigating authority who will have day-to-day responsibility for dealing with the source on behalf of that authority, and for the source's security and welfare;*
- (b) ___ that there will at all times be another person holding an office, rank or position with the relevant investigating authority who will have general oversight of the use made of the source;*
- (c) ___ that there will at all times be a person holding an office, rank or position with the relevant investigating authority who will have responsibility for maintaining a record of the use made of the source;*

(d) ___ that the records relating to the source that are maintained by the relevant investigating authority will always contain particulars of all such matters (if any) as may be specified for the purposes of this paragraph in regulations made by the Secretary of State; and

(e) ___ that records maintained by the relevant investigating authority that disclose the identity of the source will not be available to persons except to the extent that there is a need for access to them to be made available to those persons.”

All application forms must be fully completed with the required details **with a risk assessment** to enable the authorising officer to make an informed decision.

Deleted: (see Appendix B)

8.1.7 **Judicial Approval of Authorisations**

Deleted: a

Once the authorising officer has authorised the Directed Surveillance or CHIS, the Authorising Officer (or his/her nominee) who completed the application form should contact the Magistrates' Court to arrange a hearing for the authorisation to be approved by a Justice of the Peace.

The Authorising Officer (or his/her nominee) will provide the Justice of the Peace with a copy of the original authorisation and the supporting documents setting out the case. This forms the basis of the application to the Justice of the Peace and should contain all information that is relied upon.

In addition the Authorising Officer (or his/her nominee) will provide the Justice of the Peace with a partially completed judicial application/order form.

The hearing will be in private and the **Authorising** officer will be sworn in and present evidence as required by the Justice of the Peace. Any such evidence should be limited to the information in the authorisation.

The Justice of the Peace will consider whether he/she is satisfied that at the time the authorisation was given there were reasonable grounds for believing that the authorisation or notice was necessary and proportionate and whether that continues to be the case. They will also consider whether the authorisation was given by the appropriate designated person at the correct level within the Council and whether (in the case of directed surveillance) the crime threshold has been met.

Deleted: ¶

▼
The Justice of the Peace can:

- a) **Approve the grant of the authorization**, which means the authorisation will then take effect;

- b) **Refuse to approve the grant of the authorisation**, which means the authorisation will not take effect but the Council could look at the reasons for refusal, make any amendments and reapply for judicial approval.
- c) **Refuse to approve the grant of the authorisation and quash the original authorisation**. The court cannot exercise its power to quash the authorisation unless the applicant has at least 2 business days from the date of the refusal in which to make representations.

8.1.8 **Working in partnership with the Police**

Authorisation can be granted in situations where the police rather than the Council require the surveillance to take action, as long as the behaviour complained of, meets all criteria to grant and in addition is also of concern to the Council. Authorisation cannot be granted for surveillance requested by the police for a purely police issue.

The Police may authorise RIPA without Magistrates' Court approval; if an urgent situation arises and RIPA authorisation would be required urgently the Council should contact the Police.

9. **Duration and Cancellation**

- An authorisation for **directed surveillance** shall cease to have effect (if not renewed) **3 months** from the date the Justice of the Peace approves the grant
- If renewed the authorisation shall cease to have effect 3 months from the expiry date of the original authorisation.
- An authorisation for **CHIS** shall cease to have effect (unless renewed) **12 months** from the date the Justice of the Peace approves the grant or renewal.

This does not mean that the authorisation should necessarily be permitted to last for the whole period so that it lapses at the end of this time. The authorising officer, in accordance with s.45 of the Act, must cancel each authorisation as soon as that officer decides that the surveillance should be discontinued.

Authorisations continue to exist even if they have ceased to have effect. Authorisations, therefore, must be cancelled if the directed surveillance as a whole no longer meets the criteria upon which it was authorised.

The date the authorisation was cancelled should be centrally recorded and documentation of any instruction to cease surveillance should be retained and kept with the cancellation form.

Deleted: The a

Deleted: satisfied that

The cancellation form should detail what surveillance took place, if there was any collateral intrusion, what evidence was obtained and how it is to be managed, any risks to a CHIS. Details relating to the retention of records is set out in paragraph 13 below.

10. Reviews

The authorising officer should review all authorisations at intervals determined by him/herself. This should be as often as necessary and practicable. The reviews should be recorded.

If the directed surveillance authorisation provides for the surveillance of unidentified individuals whose identity is later established, the terms of the authorisation should be refined at review to include the identity of these individuals. A review would be appropriate specifically for this purpose.

Particular attention should be paid to the possibility of obtaining confidential information.

11. Renewals

Any authorised officer may renew an existing authorisation on the same terms as the original at any time before the original ceases to have effect.

The renewal must then be approved by the Justice of the Peace, before the expiry of the original authorisation, in the same way the original authorisation was approved.

The process outlined in paragraph 8.1.7 should be followed for renewals.

A CHIS authorisation must be thoroughly reviewed at regular intervals before it is renewed.

12. Central Register of authorisations

12.1 All authorities must maintain the following documents:

- Copy of the application and a copy of the authorisation and Order made by the Magistrates' Court 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 authorising officer;
- A record of the result of each review of the authorisation;
- A copy of any renewal of an authorisation and Order made by the Magistrates Court and supporting documentation submitted when the renewal was requested;
- The date and time when any instruction to cease surveillance was given;
- The date and time when any other instruction was given by the authorising officer.

12.2 To comply with 12.1 the Principal Solicitor holds the central register of all authorisations issued by officers of Ashfield District Council. The original copy of every authorisation, renewal and cancellation issued should be lodged immediately with the Principal Solicitor in an envelope marked 'Private and Confidential'. Any original authorisations and renewals taken to the Magistrates' Court should be retained by the Council, the Court must only keep copies of the authorisations or renewals.

Deleted: Assistant Chief Executive (Governance)

Deleted: A

Deleted: Assistant Chief Executive (Governance)

12.3 The Council must also maintain a centrally retrievable record of the following information:

Deleted: 3

- type of authorisation
- date the authorisation was given
- date the approval Order was given by the Magistrates Court
- name and rank/grade of the authorising officer
- unique reference number of the investigation/operation
- title (including brief description and names of the subjects) of the investigation/operation;
- details of renewal
- dates of any approval Order for renewal given by the Justice of the Peace

Deleted: Justice of the Peace

- whether the investigation/operation is likely to result in obtaining confidential information
- date of cancellation
- whether the authorisation was granted by an individual directly involved in the investigation
- Magistrates Court Information

These records will be retained for at least 3 years and will be available for inspection by the Office of Surveillance Commissioners.

13. **Retention of records**

The Council must ensure that arrangements are in place for the secure handling, storage and destruction of material obtained through the use of directed surveillance or CHIS.

Authorising Officers, through their relevant Data Controller, must ensure compliance with the appropriate data protection requirements under the Data Protection Act 1998 and any relevant codes of practice relating to the handling and storage of material.

14. **Complaints procedure**

14.1 The Council will maintain the standards set out in this guidance and the Codes of Practice (**See Appendix C and D**). The Chief Surveillance Commissioner has responsibility for monitoring and reviewing the way the Council exercises the powers and duties conferred by RIPA.

14.2 Contravention of the Data Protection Act 1998 may be reported to the Information Commissioner. Before making such a reference, a complaint concerning a breach of this guidance should be made using the Council's own internal complaints procedure. To request a complaints form, please contact the Council at Council Offices, Urban Road, Kirkby-in-Ashfield, Nottinghamshire, NG17 8DA, or telephone 01623 450000, or e-mail to customerservices@ashfield-dc.gov.uk

14.3 The 2000 Act establishes an independent Tribunal. The Tribunal has full powers to investigate and decide any case within its jurisdiction. Details of the relevant complaints procedure can be obtained from the following address:

Investigatory Powers Tribunal

PO Box 33220

London

SW1H 9ZQ

020 7035 3711

Appendix A – Authorising Officers

	<u>Name</u>	<u>Job Title</u>	<u>Contact No.</u>
1.	<u>Robert Mitchell</u>	<u>Chief Executive</u>	<u>01623 450000</u> <u>Ext: 4250</u>
2.	<u>Dave Greenwood</u>	<u>Deputy Chief Executive (Resources)</u>	<u>01623 450000</u> <u>Ext: 4200</u>
3.	<u>Craig Bonar</u>	<u>Service Director – Corporate Services & Transformation</u>	<u>01623 450000</u> <u>Ext: 4203</u>
4.	<u>Edd De Coverely</u>	<u>Service Director – Place & Communities</u>	<u>01623 450000</u> <u>Ext: 4365 / 3864</u>
5.	<u>Paul Parkinson</u>	<u>Service Director - Housing</u>	<u>01623 450000</u> <u>Ext. 2891</u>
6.	<u>Carol Cooper-Smith (interim)</u>	<u>Service Director – Planning & Economic Development</u>	<u>01623 450000</u> <u>Ext. 4374</u>

For authorisations relating to Juveniles (para 7.7), Vulnerable CHIS (para 7.8) or Journalistic/Confidential Material (Para 8.1.3):

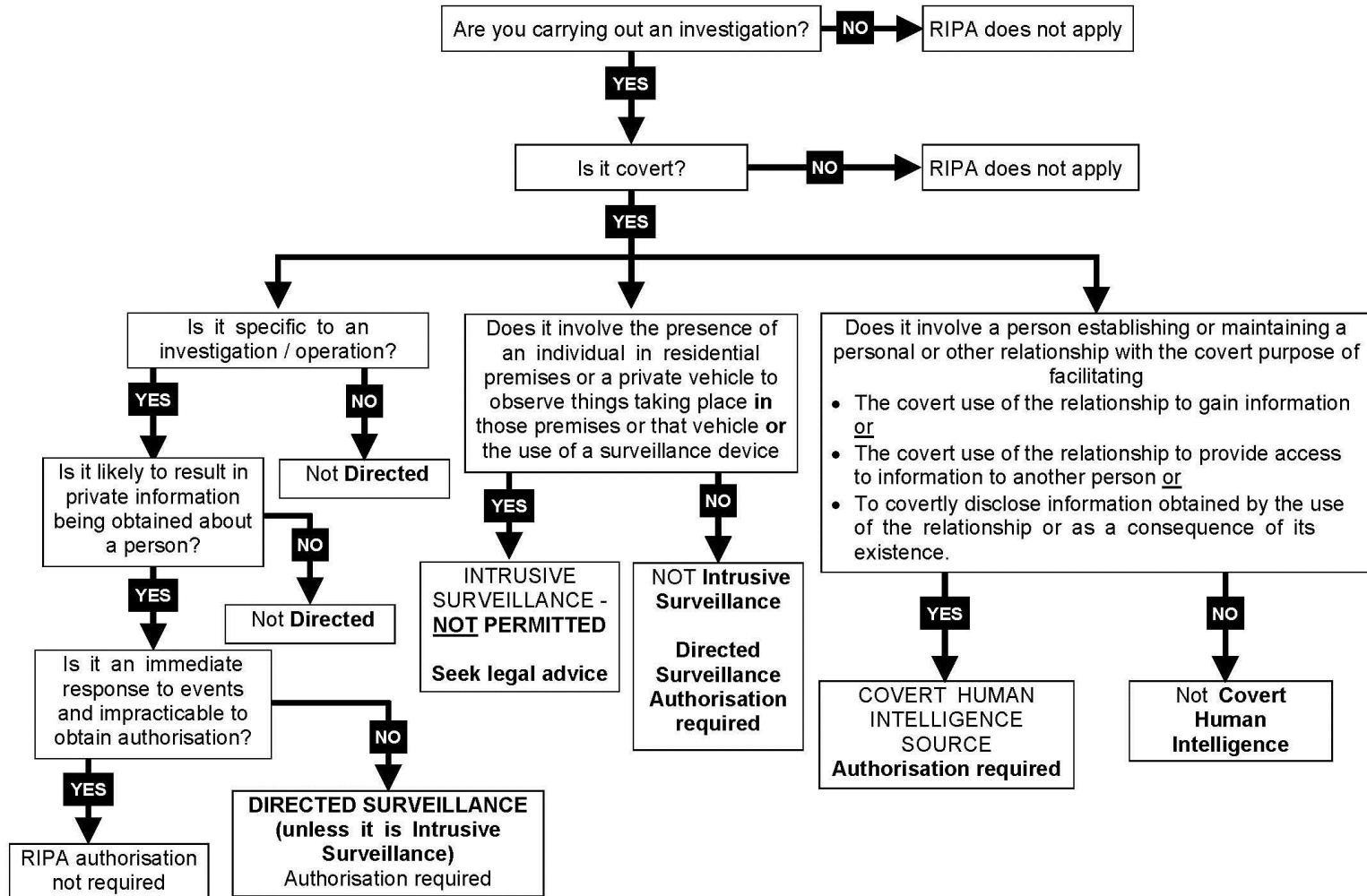
	<u>Rob Mitchell</u>	<u>Assistant Chief Executive (Governance) & Monitoring Officer & RIPA Senior Responsible Officer</u>	<u>01623 450000</u> <u>Ext: 4009</u>
--	---------------------	--	---

In exceptional circumstances:

	<u>Ruth Dennis</u>	<u>Assistant Chief Executive (Governance) & Monitoring Officer & RIPA Senior Responsible Officer</u>	<u>01623 450000</u> <u>Ext: 4009</u>
--	--------------------	--	---

DIRECTED SURVEILLANCE

Regulation of Investigatory Powers Act 2000 - Do you need Authorisation?



APPENDIX C

Deleted: B

Forms

See Home Office website:

<https://www.gov.uk/government/collections/ripa-forms--2>

Deleted: www.homeoffice.gov.uk/counter-terrorism/regulation-of-investigatory-powers-act
-----Section Break (Next Page)-----

APPENDIX D

Deleted: C

Codes of Practice

See Home Office website:

<https://www.gov.uk/government/collections/ripa-codes>

Deleted: www.homeoffice.gov.uk/counter-terrorism/regulation-of-investigatory-powers-act

APPENDIX E

Deleted: D

Guidance for Applications at the Magistrates' Court

See Home Office website:

<https://www.gov.uk/government/publications/changes-to-local-authority-use-of-ripa>

Deleted: www.homeoffice.gov.uk/counter-terrorism/regulation-of-investigatory-powers-act

Formatted: Centered, Indent: Left: 1.27 cm, Space Before: 12 pt

Deleted: Section Break (Next Page)