Brighton & Hove City Council

# Corporate Policy & Procedures Document on the Regulation of Investigatory Powers Act 2000 (RIPA)

- Use of Directed Surveillance
- Use of Covert Human Intelligence Sources
- Accessing Communications Data

Jo Player
Head of Safer Communities
Telephone: 01273 292488
Fax: 01273 292524
E-mail: jo.player@brighton-hove.gov.uk

Version: January 2022

# Contents page


Introduction ..... 3
Policy Statement ..... 4
Senior Responsible Officer ..... 4
Authorising Officers Responsibilities ..... 5
General Information on RIPA ..... 7
What RIPA Does and Does Not Do ..... 8
Types of Surveillance ..... 9
Conduct and Use of a Covert Human Intelligence Source (CHIS) ..... 13
Online Covert Activity ..... 14
Juvenile Sources and Vulnerable Individuals ..... 17
Accessing Communications Data ..... 19
Authorisation Procedures ..... 20
Grounds for Authorisation ..... 21
Serious Crime and Non RIPA Surveillance ..... 21
Confidential Material ..... 23
Duration ..... 24
Working with Other Agencies ..... 24
Record Management ..... 25
Consequences of Non Compliance ..... 26
Oversight by Members ..... 26
Concluding Remarks ..... 27
Appendix 1: List of Authorising Officers ..... 28
Appendix 2: Flow chart outlining process ..... 29
Appendix 3: List of Useful Websites ..... 30
Appendix 4: Guidance for Authorising Officers ..... 31
Appendix 5: Guidance for Applicants ..... 34


The Regulation of Regulatory Powers Act 2000 refers to ‘Designated Officers’. For ease of understanding and application this document refers to ‘Authorising Officers’.

# Introduction

This document is based on the requirements of the Regulation of Investigatory Powers Act 2000 (RIPA) and the Home Office's Code of Practices for Directed Surveillance and Covert Human Intelligence Sources (CHIS) and Accessing Communications data. It takes into account the oversight provisions contained in the revised Code of Practice for Covert Surveillance and the revised Code of Practice that deals with Access to communications data that came into force on 6th April 2010. Officers should also bear in mind Procedures and Guidance issued by the Office of the Surveillance Commissioner in December 2014, and guidance issued in the revised code of practice in August 2018, when applying for, and authorising applications. This policy and procedures document sets out the means of compliance with, and use of, the Act by The Council. It is based upon the requirements of the Act and the Home Office's Codes of Practice on Covert Surveillance and Covert Human Intelligence Sources, together with the Revised Draft Code of Practice on Accessing Communications Data

The authoritative position on RIPA is the Act itself and any Officer who is unsure about any aspect of this document should contact the Head of Safer Communities or the Head of Law, for advice and assistance.

This document has been approved by elected members and is available from the Head of Safer Communities.

The Head of Safer Communities will maintain the Central Register of all authorisations, reviews, renewals, cancellations and rejections. It is the responsibility of the relevant Authorising Officer to ensure that relevant form is submitted, for inclusion on the register, within 1 week of its completion.

This document will be subject to an annual review by the Head of Safer Communities and will be approved by elected members.

In terms of monitoring e-mails and internet usage, it is important to recognise the interplay and overlap with the Council's Information Technology policies and guidance, the Telecommunications (Lawful Business Practice)(Interception of Communications) Regulations 2000, the Data Protection Act 1998 and its Code Of Practice and the General Data Protection Regulations. RIPA forms should only be used where **relevant** and they will only be **relevant** where the **criteria** listed are fully met.

# Policy Statement

The Council takes its statutory responsibilities seriously and will at all times act in accordance with the law and takes necessary and proportionate action in these types of matters. In that regard the Head of Safer Communities is duly authorised to keep this document up to date and amend, delete, add or substitute relevant provisions, as necessary. For administrative and operational effectiveness, the Head of safer Communities is authorised to add or substitute Authorising Officers with the agreement of the Senior Responsible Officer.

It is this Council's Policy that

- All covert surveillance exercises conducted by the Council should comply with the requirements of RIPA
- An Authorisation will only be valid if initialled by a gatekeeper and signed by an authorising officer.
- Authorising 'Access to Communications data' will be restricted to the Head of Safer Communities. The National Anti Fraud Network will become the Single Point of Contact for purposes of Access to Communications Data.

# Senior Responsible Officer

The revised Code of Practice recommends that each public authority appoints a Senior Responsible Officer. This officer will be responsible for the integrity of the process in place within the public authority to authorise directed surveillance; compliance with the relevant Acts and 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.

The Senior Responsible Officer should be a member of the corporate management team and for the purposes of this policy the Executive Director Strategy Governance and Law has been so delegated. It is the responsibility of the Senior Responsible Officer to ensure that all authorising officers are of an appropriate standard in light of any recommendations in the inspection reports prepared by the Office of the Surveillance Commissioners. Where an inspection report highlights concerns about the standards of authorising officers, it is the responsibility of the Senior Responsible Officer to ensure these concerns are addressed.

# Authorising Officers Responsibilities

The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 and the Regulation of Investigatory Powers (Communications Data) Order 2010, specify the seniority of officers who are able to authorise surveillance activity and access to communications data. These are Directors, Head of Service, Service Manager or equivalent.

It is essential that Senior Managers and Authorising Officers take personal responsibility for the effective and efficient operation of this document.

It is the responsibility of the Senior Responsible Officer in conjunction with the Head of Safer Communities to ensure that sufficient numbers of Authorising Officers receive suitable training on RIPA and this document, and that they are competent.

It will be the responsibility of those Authorising Officers to ensure that relevant members of staff are also suitably trained as 'Applicants'.

An authorisation must not be approved until the Authorising Officer is satisfied that the activity proposed is necessary and proportionate.

However it will be the responsibility of the gatekeeper to review any applications prior to submission to the Authorising Officer. They should ensure that the correct form has been used. These are the latest Home Office forms and are available on the HO website and that the applicant has obtained a Unique Reference Number (URN) from the Partnership Support Officer Safer Communities Services. The gatekeeper should also ensure that the form has been correctly completed and contains sufficient detail and information to enable the authorising officer to make an informed decision whether to authorise the application. The gatekeeper should also scrutinise the form to ensure that it complies with the necessity and proportionality requirements before the authorising officer receives the form. A gatekeeper should be a person with sufficient knowledge and understanding of the enforcement activities of the relevant public body, who should vet the applications as outlined above. Once the gatekeeper is satisfied with the application they should initial the form and submit any comments on the application in writing to the Authorising Officer and provide necessary feedback to the applicant. In order that there is consistency with the quality of applications the Head of Safer Communities and Principal Trading Standards Officer will act as gatekeepers for the Council. It should be noted that the Head of Safer Communities will not act as gatekeeper and Authorising Officer on the same application.

- **Necessary** in this context includes consideration as to whether the information sought could be obtained by other less invasive means, and that those methods have been explored and been unsuccessful or could have compromised the investigation. The Authorising Officer must be satisfied that there is necessity to use covert surveillance in the proposed operation. In order to be satisfied there must be an identifiable offence to prevent or detect before an authorisation can be granted on the grounds falling within sec 28(3)(b) and 29(3)(b) of RIPA and ss6(3) and 7(3) of RIP(S)A. The application should identify the **specific offence** being investigated **(including the Act and section)** and the **specific point(s) to prove** that the surveillance is intended to gather evidence about. The applicant must show that the operation is **capable of gathering that evidence** and that such **evidence is likely to prove** that part of the offence.
- Deciding whether the activity is **proportionate** includes balancing the right to privacy against the seriousness of the offence being investigated. Consideration must be given as to whether the activity could be seen as excessive. An authorisation should demonstrate how the

Authorising Officer has reached the conclusion that the activity is proportionate to what it seeks to achieve; including an explanation of the reasons why the method, tactic or technique proposed is not disproportionate to what it seeks to achieve. A potential model answer would make it clear that the 4 elements of proportionality had been fully considered.

1. Balancing the size and scope of the operation against the gravity and extent of the perceived mischief,
2. Explaining how and why the methods to be adopted will cause the least possible intrusion on the target and others,
3. That the activity is an appropriate use of the legislation and the only reasonable way, having considered all others, of obtaining the necessary result and,
4. Evidencing what other methods had been considered and why they were not implemented.

Authorising Officers must pay particular attention to Health & Safety issues that may be raised by any proposed surveillance activity. Approval must not be given until such time as any health and safety issue has been addressed and/or the risks identified are minimised.

Authorising Officers must ensure that staff who report to them follow this document and do not undertake any form of surveillance, or access communications data, without first obtaining the relevant authorisation in compliance with this document.

Authorising Officers must ensure when sending copies of any forms to the Head of Safer Communities for inclusion in the Central Register, that they are sent in **sealed** envelopes and marked **Strictly Private & Confidential**.

# General Information on RIPA

The Human Rights Act 1998 (which brought much of the European Convention on Human Rights and Fundamental Freedom 1950 into UK domestic law) requires the City Council, and organisations working on its behalf, to respect the private and family life of citizens, his home and his correspondence.

The European Convention did not make this an absolute right, but a qualified right. Therefore, in certain circumstances, the City Council may interfere in an individual's right as mentioned above, if that interference is:-

**a. In accordance with the law;**
b. **Necessary**; and
c. **Proportionate**.

The Regulation of Investigatory Powers Act 2000 (RIPA) provides a statutory mechanism (i.e. 'in accordance with the law') for authorising **covert surveillance** and the use of a **'covert human intelligence source' ('CHIS')** – e.g. undercover agents, and **Accessing Communications data**. It seeks to ensure that any interference with an individual's right under Article 8 of the European Convention is necessary and proportionate. In doing so, the RIPA seeks to ensure both the public interest and the human rights of individuals are suitably balanced.

Directly employed Council staff and external agencies working for the City Council are covered by the Act for the time they are working for the City Council. All external agencies must, therefore, comply with RIPA and the work carried out by agencies on the Council's behalf must be properly authorised by an Authorising Officer after scrutiny by a gatekeeper.

A list of officers who may authorise Directed Surveillance is kept by the Head of Safer Communities and the current list is attached at **Appendix 1**. This list will be updated annually. The designated gatekeepers for the Council are the Principal Trading Standards Officer and the Head of Safer Communities. For the purposes of Accessing Communications Data the Designated Persons (Authorised Officers) is the Head of Safer Communities.

If the correct procedures are not followed, evidence may be dis-allowed by the courts, a complaint of mal-administration could be made to the Ombudsman, and/or the Council could be ordered to pay compensation. Such action would not, of course, promote the good reputation of the City Council and will, undoubtedly, be the subject of adverse press and media interest.

A flowchart of the procedures to be followed appears at **Appendix 2**. A list of useful websites is available at **Appendix 3**.

# What RIPA Does and Does Not Do

## RIPA does:

- Requires prior authorisation of directed surveillance
- Prohibits the Council from carrying out intrusive surveillance
- Requires authorisation of the conduct and use of a CHIS
- Require safeguards for the conduct and use of a CHIS
- Requires proper authorisation to obtain communication data
- Prohibits the Council from accessing 'traffic data'

## RIPA does not:

- Make unlawful conduct which is otherwise lawful
- Prejudice or dis-apply any existing powers available to the City Council to obtain information by any means not involving conduct that may be authorised under this Act. For example, it does not affect the Council's current powers to obtain information via the DVLA or to get information from the Land Registry as to the ownership of a property.

  If the Authorising Officer or any Applicant is in any doubt, they should ask the Head of Safer Communities or the Head of Law before any directed surveillance, CHIS, or Access to Communications is authorised, renewed, cancelled or rejected.

# Types of Surveillance

**‘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 device(s).

**Surveillance can be overt or covert.**

## Overt Surveillance

Most surveillance activity will be done overtly, that is, there will be nothing secretive, clandestine or hidden about it. In many cases, officers will be behaving in the same way as a normal member of the public (e.g. in the case of most test purchases), and/or will be going about Council business openly (e.g. a Neighbourhood Warden walking through the estate).

Similarly, surveillance will be overt if the subject has been told it will happen (e.g. where a noisemaker is warned (preferably in writing) that noise will be recorded if the noise continues, or where an entertainment licence is issued subject to conditions, and the licensee is told that officers may visit without notice or identifying themselves to the owner/proprietor to check that the conditions are being met.

**The following are NOT normally Directed Surveillance:**

- Activity that is observed as part of normal duties, e.g. by an officer in the course of day-to-day work.
- CCTV cameras (unless they have been directed at the request of investigators) – these are overt or incidental surveillance, and are regulated by the Data Protection Act.

## Covert Surveillance

Covert Surveillance is carried out in a manner calculated to ensure that the person subject to the surveillance is unaware of it taking place. (Section 26(9)(a) RIPA) It is about the intention of the surveillance, not about whether they are actually aware of it; it is possible to be covert in Council uniform where, for example, the person is intended to mistake the reason for the officer being there.

RIPA regulates two types of covert surveillance, (Directed Surveillance and Intrusive Surveillance) and the use of Covert Human Intelligence Sources (CHIS).

# Directed Surveillance

Directed Surveillance is surveillance which: -

- Is covert; and
- Is not intrusive surveillance;
- Is not carried out in an immediate response to events which would otherwise make seeking authorisation under the Act unreasonable, e.g. spotting something suspicious and continuing to observe it; and
- It is undertaken for the purpose of a **specific investigation** or **operation** in a manner **likely to obtain private information** about an individual (whether or not that person is specifically targeted for purposes of an investigation).

Private information in relation to a person includes any information relating to his private and family life, his home and his correspondence. The fact that covert surveillance occurs in a public place or on business premises does not mean that it cannot result in the obtaining of private information about a person. Prolonged surveillance targeted on a single person will undoubtedly result in the obtaining of private information about him/her and others that s/he comes into contact, or associates, with.

**Examples of Expectations of Privacy:**

*Two people are holding a conversation on the street and, even though they are talking together in public, they do not expect their conversation to be overheard and recorded by anyone. They have a 'reasonable expectation of privacy' about the contents of that conversation, even though they are talking in the street.*

The contents of such a conversation should be considered as private information. A directed surveillance authorisation would therefore be appropriate for a public authority to record or listen to the conversation as part of a specific investigation or operation and otherwise than by way of an immediate response to events.

*A Surveillance officer intends to record a specific person providing their name and telephone number to a shop assistant, in order to confirm their identity, as part of a criminal investigation.*

Although the person has disclosed these details in a public place, there is nevertheless a reasonable expectation that the details are not being recorded separately for another purpose. A directed surveillance authorisation should therefore be sought.

For the avoidance of doubt, only those officers designated as 'Authorising Officers' for the purpose of RIPA can authorise 'Directed Surveillance' IF, AND ONLY IF, the RIPA authorisation procedures detailed in this document, are followed.

**Reconnaissance- Examples**

*Officers wish to drive past a café for the purposes of obtaining a photograph of the exterior. Reconnaissance of this nature is not likely to require a directed surveillance authorisation as no private information about any person is likely to be obtained or recorded. If the officers chanced to see illegal activities taking place, these could be recorded and acted upon as 'an immediate response to events'. If, however, the officers intended to carry out the exercise at a specific time of day, when they expected to see unlawful activity, this would not be reconnaissance but directed surveillance, and an authorisation should be considered. Similarly, if the officers wished to conduct a similar exercise several times, for example to establish a pattern of occupancy of the premises*

*by any person, the accumulation of information is likely to result in the obtaining of private information about that person or persons and a directed surveillance authorisation should be considered.*

# Intrusive Surveillance

This is when it: -

- Is covert;
- Relates to residential premises and private vehicles; and
- Involves the presence of a person in the premises or in the vehicle or is carried out by a surveillance device in the premises/vehicle. Surveillance equipment mounted outside the premises will not be intrusive, unless the device consistently provides information of the same quality and detail as might be expected if they were in the premises/vehicle.

Only police and other law enforcement agencies can carry out this form of surveillance.

**Council Officers must not carry out intrusive surveillance.**

**Notes about 'Intrusive'**

Surveillance is generally 'Intrusive' only if the person is on the same premises or in the same vehicle as the subject(s) of the surveillance. Carrying out surveillance using private residential premises (with the consent of the occupier) as a 'Static Observation Point' does not make that surveillance 'Intrusive'. A device used to enhance your external view of property is almost never an *intrusive* device. A device would only become *intrusive* where it provided a high quality of information from inside the *private residential premises* A device used to enhance your external view of property is almost never an *intrusive* device. A device would only become intrusive where it provided a high quality of information from inside the *private residential premises*. If premises under surveillance are known to be used for legally privileged communications, that surveillance must also be treated as *intrusive*.

**Examples:**

*Officers intend to use an empty office to carry out surveillance on a person who lives opposite. As the office is on the 4th floor, they wish to use a long lens and binoculars so that they can correctly identify and then photograph their intended subject covertly.* This is NOT *intrusive surveillance*, as the devices do not provide high quality evidence from inside the subject's premises. *Officers intend using a surveillance van parked across the street from the subject's house. They could see and identify the subject without binoculars but have realised that, if they use a 500mm lens, as the subject has no net curtains or blinds, they should be able to see documents he is reading. This IS intrusive surveillance, as the evidence gathered is of a high quality, from inside the premises, and is as good as could be provided by an officer or a device being on the premises.*

# Examples of different types of Surveillance

| Type of Surveillance | Examples |
|---|---|
| Overt | • Police Officer or Parks Warden on patrol<br>• Sign-posted Town Centre CCTV cameras (in normal use)<br>• Recording noise coming from outside the premises after the occupier has been warned that this will occur if the noise persists.<br>• Most test purchases (where the officer behaves no differently from a normal member of the public). |
| Covert but not requiring prior authorisation | • CCTV cameras providing general traffic, crime or public safety information. |
| Directed (must be RIPA authorised) | • Officers follow an individual or individuals over a period, to establish whether s/he is working when claiming benefit or off long term sick from employment.<br>• Test purchases where the officer has a hidden camera or other recording device to record information that might include information about the private life of a shop-owner, e.g. where s/he is suspected of running his business in an unlawful manner. |
| Intrusive | • Planting a listening or other device (bug) in a person's home or in their private vehicle.<br><br>**THE COUNCIL CANNOT CARRY OUT THIS ACTIVITY AND FORBIDS ITS OFFICERS FROM CARRYING IT OUT** |

# Conduct and Use of a Covert Human Intelligence Source (CHIS)

## Who is a CHIS?

A Covert Human Intelligence Source (CHIS) is someone who establishes or maintains a personal or other relationship for the covert purpose or facilitating anything falling under the following bullet points;

- Covertly uses such a relationship to obtain information or to provide access to any information to another person or,
- Covertly discloses information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship.

RIPA may or may not apply in circumstances where members of the public volunteer information to the Council or to contact numbers set up to receive such information (such as benefit fraud hotlines). It will often depend on how the information was obtained. If an individual has obtained the information in the course of or as a result of a personal or other relationship it may be that they are acting as a CHIS. The contrast is between such a person and one who has merely observed the relevant activity from 'behind his (actual or figurative) net curtains.

A relationship is covert if it is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of its purpose.

If a person who volunteers information is then asked to obtain further information, it is likely that they would either become a CHIS or that a directed surveillance authorisation should be considered.

| **Examples of a CHIS may include:** |
| --- |
| • Licensing officers, working with the Police, covertly building a business relationship with a cab company which is believed to be using unlicensed drivers.<br>• Food safety officers posing as customers to get information on what is being sold at premises and developing a relationship with the shopkeeper beyond that of supplier and customer |

## What must be authorised?

Officers must not create or use a CHIS without prior authorisation. If there is any doubt as to whether an individual is acting as a CHIS advice should be sought from the Head of Safer Communities.

- Creating (or "Conduct of") a CHIS means procuring a person to establish or maintain a relationship with a person so as to secretly obtain and pass on information. The relationship could be a personal or 'other' relationship (such as a business relationship) and obtaining the information may be either the only reason for the relationship or be incidental to it. Note that it can also include asking a person to continue a relationship which they set up of their own accord.

- Use of a CHIS includes actions inducing, asking or assisting a person to act as a CHIS and the decision to use a CHIS in the first place.

# Online Covert Activity

The growth of the internet, and the extent of the information that is now available online, presents new opportunities for public authorities to view or gather information which may assist them in preventing or detecting crime or carrying out other statutory functions, as well as in understanding and engaging with the public they serve. It is important that public authorities are able to make full and lawful use of this information for their statutory purposes. Much of it can be accessed without the need for RIPA authorisation; use of the internet prior to an investigation should not normally engage privacy considerations. But if the study of an individual's online presence becomes persistent, or where material obtained from any check is to be extracted and recorded and may engage privacy considerations, RIPA authorisations may need to be considered. The following guidance is intended to assist public authorities in identifying when such authorisations may be appropriate. The internet may be used for intelligence gathering and/or as a surveillance tool. Where online monitoring or investigation is conducted covertly for the purpose of a specific investigation or operation and is likely to result in the obtaining of private information about a person or group, an authorisation for directed surveillance should be considered, as set out elsewhere in this code. Where a person acting on behalf of a public authority is intending to engage with others online without disclosing his or her identity, a CHIS authorisation may be needed (paragraphs 4.10 to 4.16 of the Covert Human Intelligence Sources code of practice provide detail on where a CHIS authorisation may be available for online activity).

In deciding whether online surveillance should be regarded as covert, consideration should be given to the likelihood of the subject(s) knowing that the surveillance is or may be taking place. Use of the internet itself may be considered as adopting a surveillance technique calculated to ensure that the subject is unaware of it, even if no further steps are taken to conceal the activity. Conversely, where a public authority has taken reasonable steps to inform the public or particular individuals that the surveillance is or may be taking place, the activity may be regarded as overt and a directed surveillance authorisation will not normally be available. As set out below, depending on the nature of the online platform, there may be a reduced expectation of privacy where information relating to a person or group of people is made openly available within the public domain, however in some circumstances privacy implications still apply. This is because the intention when making such information available was not for it to be used for a covert purpose such as investigative activity. This is regardless of whether a user of a website or social media platform has sought to protect such information by restricting its access by activating privacy settings.

Where information about an individual is placed on a publicly accessible database, for example the telephone directory or Companies House, which is commonly used and known to be accessible to all, they are unlikely to have any reasonable expectation of privacy over the monitoring by public authorities of that information. Individuals who post information on social media networks and other websites whose purpose is to communicate messages to a wide audience are also less likely to hold a reasonable expectation of privacy in relation to that information.

Whether a public authority interferes with a person's private life includes a consideration of the nature of the public authority's activity in relation to that information. Simple reconnaissance of such sites (i.e. preliminary examination with a view to establishing whether the site or its contents are of interest) is unlikely to interfere with a person's reasonably held expectation of privacy and

therefore is not likely to require a directed surveillance authorisation. But where a public authority is systematically collecting and recording information about a particular person or group, a directed surveillance authorisation should be considered. These considerations apply regardless of when the information was shared online. See above.

***Example 1:*** *A police officer undertakes a simple internet search on a name, address or telephone number to find out whether a subject of interest has an online presence. This is unlikely to need an authorisation. However, if having found an individual's social media profile or identity, it is decided to monitor it or extract information from it for retention in a record because it is relevant to an investigation or operation, authorisation should then be considered.*

***Example 2:*** *A customs officer makes an initial examination of an individual's online profile to establish whether they are of relevance to an investigation. This is unlikely to need an authorisation. However, if during that visit it is intended to extract and record information to establish a profile including information such as identity, pattern of life, habits, intentions or associations, it may be advisable to have in place an authorisation even for that single visit. (As set out in the following paragraph, the purpose of the visit may be relevant as to whether an authorisation should be sought.)*

***Example 3:*** *A public authority undertakes general monitoring of the internet in circumstances where it is not part of a specific, ongoing investigation or operation to identify themes, trends, possible indicators of criminality or other factors that may influence operational strategies or deployment. This activity does not require RIPA authorisation. However, when this activity leads to the discovery of previously unknown subjects of interest, once it is decided to monitor those individuals as part of an on- going operation or investigation, authorisation should be considered.*

In order to determine whether a directed surveillance authorisation should be sought for accessing information on a website as part of a covert investigation or operation, it is necessary to look at the intended purpose and scope of the online activity it is proposed to undertake. Factors that should be considered in establishing whether a directed surveillance authorisation is required include:

- Whether the investigation or research is directed towards an individual or organisation;
- Whether it is likely to result in obtaining private information about a person or group of people (taking account of the guidance at paragraph 3.6 above);
- Whether it is likely to involve visiting internet sites to build up an intelligence picture or profile;
- Whether the information obtained will be recorded and retained;
- Whether the information is likely to provide an observer with a pattern of lifestyle;
- Whether the information is being combined with other sources of information or intelligence, which amounts to information relating to a person's private life;
- Whether the investigation or research is part of an ongoing piece of work involving repeated viewing of the subject(s);
- Whether it is likely to involve identifying and recording information about third parties, such as friends and family members of the subject of interest, or information posted by third parties, that may include private information and therefore constitute collateral intrusion into the privacy of these third parties.

Internet searches carried out by a third party on behalf of a public authority, or with the use of a search tool, may still require a directed surveillance authorisation (see paragraph 4.32).

***Example:*** *Researchers within a public authority using automated monitoring tools to search for common terminology used online for illegal purposes will not normally require a directed*

*surveillance authorisation. Similarly, general analysis of data by public authorities either directly or through a third party for predictive purposes (e.g. identifying crime hotspots or analysing trends) is not usually directed surveillance.*

It is not unlawful for a member of a public authority to set up a false identity but it is inadvisable for a member of a public authority to do so for a covert purpose without authorisation. Using photographs of other persons without their permission to support the false identity infringes other laws.

# Juvenile Sources and Vulnerable Individuals

## Juvenile Sources

Special safeguards apply to the use or conduct of juvenile sources (i.e. under 18 year olds). On **no occasion can a child under 16 years of age be authorised to give information against his or her parents.**

Authorisations for juvenile CHIS must not be granted unless: -

- A risk assessment has been undertaken as part of the application, covering the physical dangers and the psychological aspects of the use of the child
- The risk assessment has been considered by the Authorising Officer and he is satisfied that any risks identified in it have been properly explained; and
- The Authorising Officer has given particular consideration as to whether the child is to be asked to get information from a relative, guardian or any other person who has for the time being taken responsibility for the welfare of the child.

**Only the Chief Executive may authorise the use of Juvenile Sources.**

## Vulnerable Individuals

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 herself, or unable to protect himself or herself against significant harm or exploitation.

**A Vulnerable Individual will only be authorised to act as a source in the most exceptional of circumstances.**

**Only the Chief Executive may authorise the use of Vulnerable Individuals.**

## Test Purchases

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 purchaser will not normally be a CHIS. For example, authorisation would not normally be required for test purchases 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 the shop, to obtain information about the seller's suppliers of an illegal product (e.g. illegally imported products) will require authorisation as a CHIS. Similarly, using mobile hidden recording devices or CCTV cameras to record what is going on in the shop will require authorisation as directed surveillance. A combined authorisation can be given for a CHIS and also directed surveillance.

Please also see below under 'Serious Crime'

# Anti-social behaviour activities (e.g. noise, violence, racial harassment etc)

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 DAT recorder) on private premises could constitute intrusive surveillance, unless it is done overtly. For example, it will be possible to record if the noisemaker is warned that this will occur if the level of noise continues.

Placing a covert stationary or mobile video camera outside a building to record anti social behaviour on residential estates will require prior authorisation.

# Accessing Communications Data

Local authority employees  will no longer be able to use their powers under relevant legislation and the exemption under the Data Protection Act 1998. The disclosure of communications data by Communication service providers will now only be permitted if a Notice to obtain and disclose (or in certain circumstances an Authorisation for an Officer to obtain it themselves) has been issued by the 'Designated person'.

Authorities are required to nominate Single Point of Contacts (SPOC) and that person(s) must have undertaken accredited training.

'Designated Persons' within the Council is now limited to the Head of Safer Communities.

Local authorities may only access to Customer Data or Service Data. **They cannot access 'traffic data'.**

## Customer data (Subscriber)

Customer data is the most basic information about users of communication services.

It includes:-

- The name of the customer
- Addresses for billing, etc.
- Contact telephone numbers
- Abstract personal records provided by the customer (e.g. demographic information or sign up data)
- Account information (bill payment arrangements, bank or credit/debit card details
- Services subscribed to.

## Service Data (Service user)

This relates to the use of the Service Provider services by the customer, and includes:-

- Periods during which the customer used the service
- Information about the provision and use of forwarding and re-direction services
- Itemised records of telephone calls, internet connections, etc
- Connection, disconnect and re-connection
- Provision of conference calls, messaging services, etc
- Records of postal items, etc
- Top-up details for pre-pay mobile phones.

## Traffic Data

This is data about the communication.  It relates to data generated or acquired by the Service Provider in delivering or fulfilling the service.  **Local authorities do not have access to this data.**

# Authorisation Procedures

Directed surveillance and the use of a CHIS can only be lawfully carried out if properly authorised, and in strict accordance with the terms of the authorisation. **Appendix 2** provides a flow chart of the process to be followed.

## Authorising Officers

Directed surveillance and or the use of CHIS can only be authorised by the officers listed in this document attached at appendix 1. Authorising officers should ensure that they undertake at least one refresher training course on RIPA during each calendar year. The list will be kept up to date by the Head of Safer Communities and amended as necessary. The SRO can add, delete or substitute posts to this list as required.

Authorisations under RIPA are separate from delegated authority to act under the Council's Scheme of Delegation and internal departmental Schemes of Management. RIPA authorisations are for specific investigations only, and must be renewed or cancelled once the specific surveillance is complete or about to expire.

Only the Chief Executive can authorise the use of a CHIS who is a juvenile or a vulnerable person or in cases where it is likely that confidential information will be obtained through the use of surveillance.

## Authorising Officers–Access to Communications data

The Head of Safer Communities are the 'Designated persons' permitted to authorise the obtaining and disclosing of communications data. The National Anti Fraud Network will be the Single Point of Contact.

## Training Records

A certificate of attendance will be given to anyone undertaking training in relation to the use of RIPA. Training will be recorded on their individual learning and development plan.

Single Points of Contact under Part 1 of the Act are required to undertake accredited training. A record will be kept of this training and any updating. This record is kept be NAFN. Designated persons are also required to be suitably trained.

## Application Forms

Only the currently approved forms, available on the Home Office website, may be used. Any other forms will be rejected by the gatekeeper/authorising officer. Applications for communications data should be made via the NAFN website. Please contact NAFN for further information on this process – contact details on the Wave.

A gatekeeper role will be undertaken by either the Head of Safer Communities or the Principal Trading Standards Officer who will check that the applications have been completed on the correct forms, have a URN and that they contain sufficient grounds for authorisation. They will provide feedback to the applicant and will initial the forms before being submitted to the authorising officer.

The Head of Safer Communities can fulfil both the role as gatekeeper and authorising officer but will not fulfil both roles for an individual application.

# Grounds for Authorisation

Directed Surveillance or the Conduct and Use of the CHIS and Access to Communications Data can be authorised by an Authorising Officer where he believes that the authorisation is necessary in the circumstances of the particular case. For local authorities the only ground that authorisation can be granted is;

- For the prevention or detection of crime

# Serious Crime and Non RIPA Surveillance

## Serious Crime

From 1st November 2012, the Protection of Freedoms Act introduced an additional requirement for officers seeking to use directed surveillance or CHIS. From this date, with the exception of Trading Standards' work regarding test purchases for alcohol and tobacco, all applications must meet the 'serious crime' threshold. This has been identified as any offence for which the offender could be imprisoned for 6 months or more. An analysis of relevant offences indicates that covert surveillance may therefore be used by, Trading Standards (various offences including doorstep crime and counterfeiting), Waste Enforcement (fly tipping), Fraud against the Council and Child Protection and Adult Safeguarding issues. Where an offence meets the serious crime threshold, the applicant will apply to the Authorising Officer in the normal way via a gatekeeper, but will then need to attend Magistrate's Court to obtain judicial sign off.

## Non RIPA Surveillance

This new process will automatically restrict the use of surveillance activity under the RIPA framework by a number of our services as the offences they deal with do not meet the serious crime threshold.

RIPA does not grant any powers to carry out surveillance, it simply provides a framework that allows authorities to authorise surveillance in a manner that ensures compliance with the European Convention on Human Rights. Equally, RIPA does not prohibit surveillance from being carried out or require that surveillance may only be carried out following a successful RIPA application.

Whilst it is the intention of this Authority to use RIPA in all circumstances where it is available, for a Local Authority, this is limited to preventing or detecting crime and from 1st November 2012 to serious crime. The Authority recognises that there are times when it will be necessary to carry out covert directed surveillance when RIPA is not available to use. Under such circumstances, a RIPA application must be completed and clearly endorsed in red 'NON-RIPA SURVEILLANCE' along the top of the first page. The application must be submitted to a RIPA Authorising Officer in the normal fashion, who must consider it for Necessity and Proportionality in the same fashion as they would a RIPA application. The normal procedure of timescales, reviews and cancellations must be followed. Copies of all authorisations or refusals, the outcome of reviews or renewal applications and eventual cancellation must be notified to the Head of Safer Communities who will keep a

separate record of Non-RIPA activities, and monitor their use in the same manner as RIPA authorised activities.

# Assessing the Application Form

Before an Authorising Officer authorises an application, **they must**

Be mindful of this Corporate Policy & Procedures Document

Satisfy themselves that the RIPA authorisation is

- **in accordance with the law**,
- **Necessary** in the circumstances of the particular case on the ground specified above; and
- **Proportionate** to what it seeks to achieve

This means that they must consider

- whether other less invasive methods to obtain the information have been considered. The least intrusive method will normally be considered the most proportionate unless for example it is impractical or would undermine the investigation.
- balance the right of privacy against the seriousness of the offence under investigation. When considering necessity and proportionality, an authorising officer should spell out in terms of the 5 W's, (who, what, why, where, when and how) what specific activity is being sanctioned.
- Take account of the risk of intrusion into the privacy of persons other than the specified subject of the surveillance **(Collateral Intrusion).**
- Ensure that measures are taken wherever practicable to avoid or minimise collateral intrusion.
- Set a date for review of the authorisation and review on only that date where appropriate.
- Ensure that the form carries a unique reference number
- Ensure that the applicant has sent a copy to the Head of Safer Communities for inclusion in the Central Register within 1 week of the authorisation.
- Ensure that the application is cancelled when required.

NB the application **MUST** make it clear how the proposed intrusion is necessary and how an absence of this evidence would prejudice the outcome of the investigation. If it does not then the application **SHOULD** be refused. Some guidance on how to complete the form for both authorising officers and applicants is available at **Appendix 4** and **Appendix 5**

# Retention and Destruction of the Product

Where the product of surveillance could be relevant to pending or future legal proceedings, it should be retained in accordance with established disclosure requirements for a suitable further period. This should be in line with any subsequent review. Attention should be drawn to the requirements of the Code of Practice issued under the Criminal Procedures and Investigations Act 1996. This states that material obtained in the course of a criminal investigation and which may be relevant to the investigation must be recorded and retained.

There is nothing in RIPA 2000 which prevents material obtained from properly authorised surveillance being used in other investigations. However we must be mindful to handle store and destroy material obtained through the use of covert surveillance appropriately. It will be the responsibility of the Authorising Officer to ensure compliance with the appropriate data protection

requirements and to ensure that any material is not retained for any longer than is necessary. It will also be the responsibility of the Authorising Officer to ensure that the material is disposed of appropriately.

# Confidential Material

Particular care should be taken where the subject of the investigation or operation might reasonably expect a high degree of privacy, or where confidential information is involved.

**Confidential Information** consists of matters subject to legal privilege, confidential personal information or confidential journalistic information. So for example extra care should be taken where through the use of surveillance, it would be possible to obtain knowledge of discussions between a minister of religion and an individual relating to the latter's spiritual welfare, or where matters of medical or journalistic confidentiality, or legal privilege may be involved.

**Where it is likely, through the use of surveillance, that confidential information will be obtained, authorisation can only be granted by Heads of Service or in their absence the Chief Executive.**

**Descriptions of what may constitute legally privileged information are set out in section 98 of Police Act 1997 and further guidance is set out in Paragraphs 3.4-3.9 of the Home Office Code of Practice on Covert Surveillance.**

## Confidential Personal Information and Confidential Journalistic Information

Similar considerations to those involving legally privileged information must also be given to authorisations that involve the above. Confidential personal information is information held in confidence relating to the physical or mental health or spiritual counselling concerning an individual (whether living or dead) who can be identified from it. This information can be either written or oral and might include consultations between a doctor and patient or information from a patient's medical records. Spiritual counselling means conversations between an individual and a Minister of Religion acting in an official capacity, where the individual being counselled is seeking or the Minister is imparting forgiveness, absolution or the resolution of conscience with the authority of the Divine Being(s) of their faith.

Confidential journalistic material includes material acquired or created for the purpose of journalism and held subject to an undertaking to hold it in confidence, as well as communications resulting in information being acquired for the purposes of journalism and held subject to such an undertaking.

**Further information or guidance regarding Confidential Information can be obtained from the Head of Law or the Head of Safer Communities.**

## Additional Safeguards when Authorising a CHIS

When authorising the conduct or use of a CHIS, the Authorising Officer **must also**

- Be satisfied that the **conduct** and/or **use** of the CHIS is proportionate to what is sought to be achieved;

- Be satisfied that **appropriate arrangements** are in place for the management and oversight of the CHIS and this must address health and safety issues through a risk assessment; At all times there will be a person designated to deal with the CHIS on behalf of the authority and for the source's security and welfare. This person should be in at least the position of Head of Service.
- Consider the likely degree of intrusion of all those potentially affected;
- Consider any adverse impact on community confidence that may result from the use or conduct or the information obtained; and
- Ensure **records** contain particulars and are not available except on a need to know basis

Records must be kept that contain the information set out in Statutory Instrument 2000/2725 – The Regulation of Investigatory Powers (Source Records) Regulations 2000. Further guidance on the requirements can be obtained from the Head of Safer Communities.

# Duration

The application form **must be reviewed in the time stated and cancelled** once it is no longer needed. The 'authorisation' to conduct the surveillance lasts for a maximum of 3 months for Directed Surveillance and 12 months for a Covert Human Intelligence Source. In respect of a notice or authorisation to obtain communications data the period is one month.

Authorisations can be renewed in writing when the maximum period has expired. The Authorising Officer must consider the matter afresh, including taking into account the benefits of the surveillance to date, and any collateral intrusion that has occurred.

The renewal will begin on the day when the authorisation would have expired.

Urgent authorisations, if not ratified by written authorisation, will cease to have effect after 72 hours, beginning from the time when the authorisation was granted.

# Working with Other Agencies

If an officer wishes to utilise the CCTV system operated by the Police

Directed Surveillance Authorisation must be obtained before an approach is made to the Control Room. If immediate action is required an Authorisation must be obtained within 72 hours of the request being made.

When some other agency has been instructed on behalf of the City Council to undertake any action under RIPA, this Document and the Forms in it must be used (as per normal procedure) and the agency advised or kept informed, as necessary, of the various requirements. They must be made aware explicitly what they are authorised to do.

When another Enforcement Agency (e.g. Police, HMRC etc): -

Wish to use the City Council's resources (e.g. CCTV surveillance systems), that agency must use its own RIPA procedures. Before any Officer agrees to allow the City Council's resources to be used for the other agency's purposes, they must obtain a copy of that agency's RIPA form, or written confirmation that a Directed Surveillance Authorisation is in place.

Wish to use the City Council's premises for their own RIPA action, the Officer should, normally, co-operate with the same, unless there is security or other good operational or managerial reasons as to why the City 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 for the City Council's co-operation in the agent's RIPA operation. In such cases, however, the City Council's own RIPA forms should not be used as the City Council is only 'assisting' not being 'involved' in the RIPA activity of the external agency.

# Record Management

A Central Register of all Authorisation Forms will be maintained and monitored by the Head of safer Communities.

**Records maintained in the Department**

- 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 Authorising Officer;
- A record of the result of each review of the authorisation;
- A copy of any renewal of an authorisation, together with supporting
- Documentation submitted when the renewal was requested;
- The date and time when any instruction was given by the Authorising Officer;
- The Unique Reference Number for the authorisation (URN).

## Central Register maintained by Safer Communities

Authorising Officers must forward details of each form to The partnership support officer Safer Communities for the Central Register, **within 1 week of the authorisation, review, renewal, cancellation or rejection**.

Records will be retained for six years from the ending of the authorisation. The Office of the Surveillance Commissioners (OSC) and the Interception Commissioner can audit/review the City Council's policies and procedures, and individual authorisations.

# Consequences of Non Compliance

Where covert surveillance work is being proposed, this Policy and Guidance must be strictly adhered to in order to protect both the Council and individual officers from the following:

- **Inadmissible** Evidence and Loss of a Court Case / Employment Tribunal / Internal Disciplinary Hearing – there is a risk that, if Covert Surveillance and Covert Human Intelligence Sources are not handled properly, the evidence obtained may be held to be inadmissible. Section 78 of the Police and Criminal Evidence Act 1984 allows for evidence that was gathered in a way that affects the fairness of the criminal proceedings to be excluded. The Common Law Rule of Admissibility means that the court may exclude evidence because its prejudicial effect on the person facing the evidence outweighs any probative value the evidence has (probative v prejudicial).
- **Legal Challenge** – as a potential breach of Article 8 of the European Convention on Human Rights, which establishes a "right to respect for private and family life, home and correspondence", incorporated into English Law by the Human Rights Act (HRA) 1998. This could not only cause embarrassment to the Council but any person aggrieved by the way a local authority carries out Covert Surveillance, as defined by RIPA, can apply to a Tribunal – see section 15.
- **Offence of unlawful disclosure** – disclosing personal data as defined by the DPA that has been gathered as part of a surveillance operation is an offence under Section 55 of the Act. Disclosure can be made but only where the officer disclosing is satisfied that it is necessary for the prevention and detection of crime, or apprehension or prosecution of offenders. Disclosure of personal data must be made where any statutory power or court order requires disclosure.
- **Fine or Imprisonment** – Interception of communications without consent is a criminal offence punishable by fine or up to two years in prison.
- **Censure** – the Office of Surveillance Commissioners conduct regular audits on how local authorities implement RIPA. If it is found that a local authority is not implementing RIPA properly, then this could result in censure.

# Oversight by Members

- Elected Members shall have oversight of the Authority's policy and shall review that policy annually.
- The report to members shall be presented to the Elected Members by the SRO. The report must not contain any information that identifies specific persons or operations.
- Alongside this report, the SRO will report details of 'Non-RIPA' surveillance in precisely the same fashion
- Elected Members may not interfere in individual authorisations. Their function is to, with reference to the reports; satisfy themselves that the Authority's policy is robust and that it is being followed by all officers involved in this area. Although it is elected members who are accountable to the public for council actions, it is essential that there should be no possibility of political interference in law enforcement operations.

# Concluding Remarks

Where there is an interference with the right to respect for private life and family guaranteed under Article 8 of the European Convention on Human Rights, and where there is no other source of lawful authority for the interference, or if it is held not to be necessary or proportionate to the circumstances, the consequences of not obtaining or following the correct authorisation procedure may be that the action (and the evidence obtained), is held to be inadmissible by the Courts pursuant to Section 6 of the Human Rights Act 1998.

Obtaining an authorisation under RIPA and following this document will ensure, therefore, that the action is carried out in accordance with the law and subject to stringent safeguards against abuse of anyone's human rights.

Authorising Officers should be suitably competent and must exercise their minds every time they are asked to sign the request. They must never sign or rubber stamp form(s) without thinking about their personal and the City Council's responsibilities.

Any boxes not needed on the Form(s) must be clearly marked as being 'NOT APPLICABLE', 'N/A' or a line put through the same. Great care must also be taken to ensure accurate information is used and is inserted in the correct boxes. Reasons for any refusal of an application must also be kept on the form and the form retained for future audits.

For further advice and assistance on RIPA, please contact the Head of Safer Communities.

Directed Surveillance/CHIS Forms can be obtained from the Home Office website or from NAFN in relation to Access to Communications Data.

# Appendix 1: List of Authorising Officers

## List of Authorised Officers

| Post | Name |
|---|---|
| Head of Safer Communities | Jo Player |
| Head of Revenues and Benefits | Graham Bourne |
| | |

## Designated Person for Approving a Notice in Respect of Access to Communications Data

- Head of Safer Communities: Jo Player

## Single Point of Contact for Accessing Communications Data

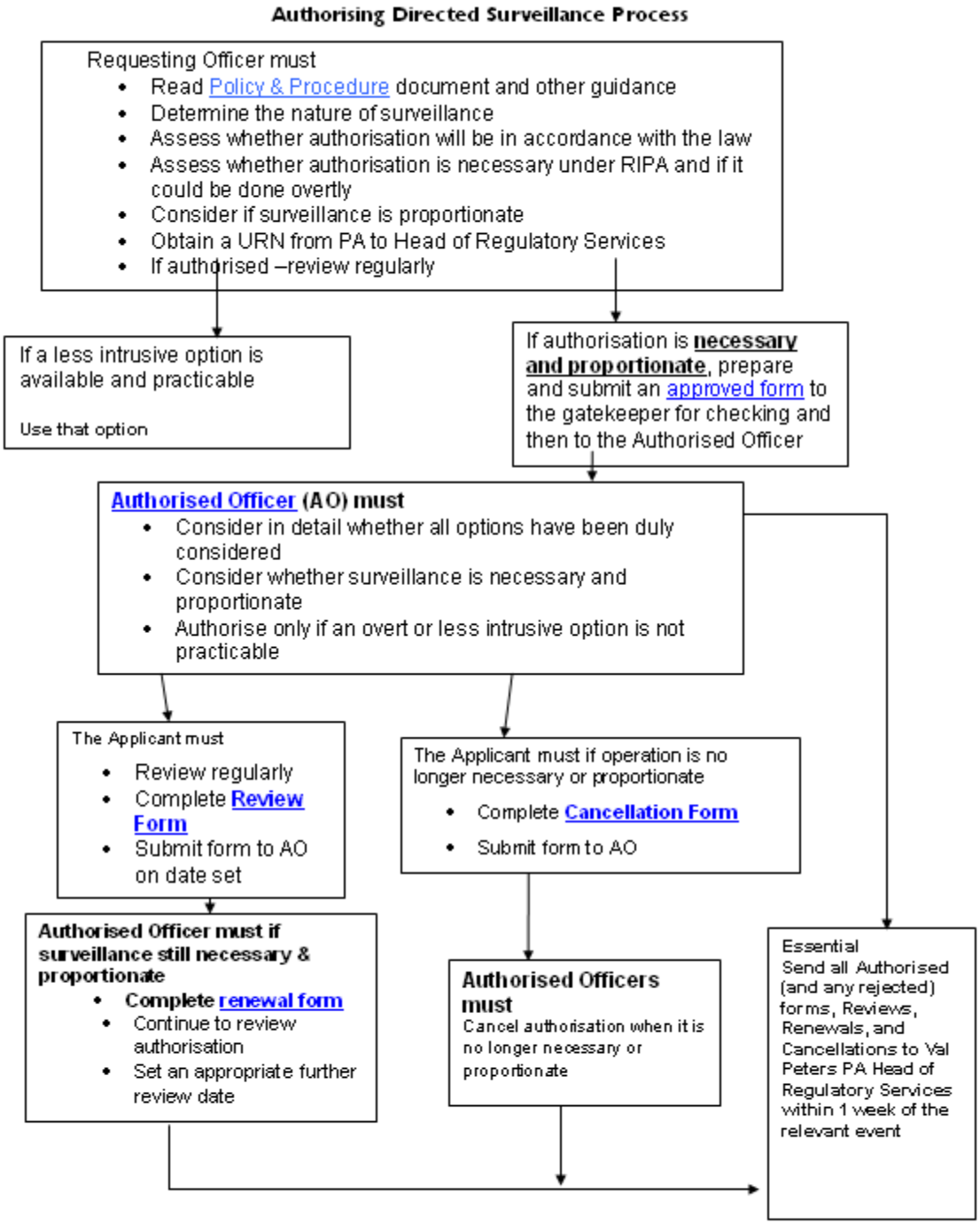
- National Anti Fraud Network (NAFN)

## Gatekeepers

- Head of Safer Communities: Jo Player
- Principal Trading Standards Officer: John Peerless

**Please contact Charlotte Farrell for a URN**

# Appendix 2: Flow chart outlining process



# Appendix 3: List of Useful Websites

## RIPA Forms, Codes of Practice and Advice

**The policy requires you to use the most up-to-date versions of forms and codes of practice. Rather than reproduce forms and codes of practice that are subject to change, we have provided links to the currently approved versions. You should access the document you require by following the relevant link.**

- The most up-to-date RIPA forms must always be used. These are available from the Home Office website and may be found by following this link : http://www.homeoffice.gov.uk/counter-terrorism/regulation-investigatory-powers/ripa-forms/

- The full text of the Codes of Practice are available here : http://www.homeoffice.gov.uk/counter-terrorism/regulation-investigatory-powers/ripa-codes-of-practice/

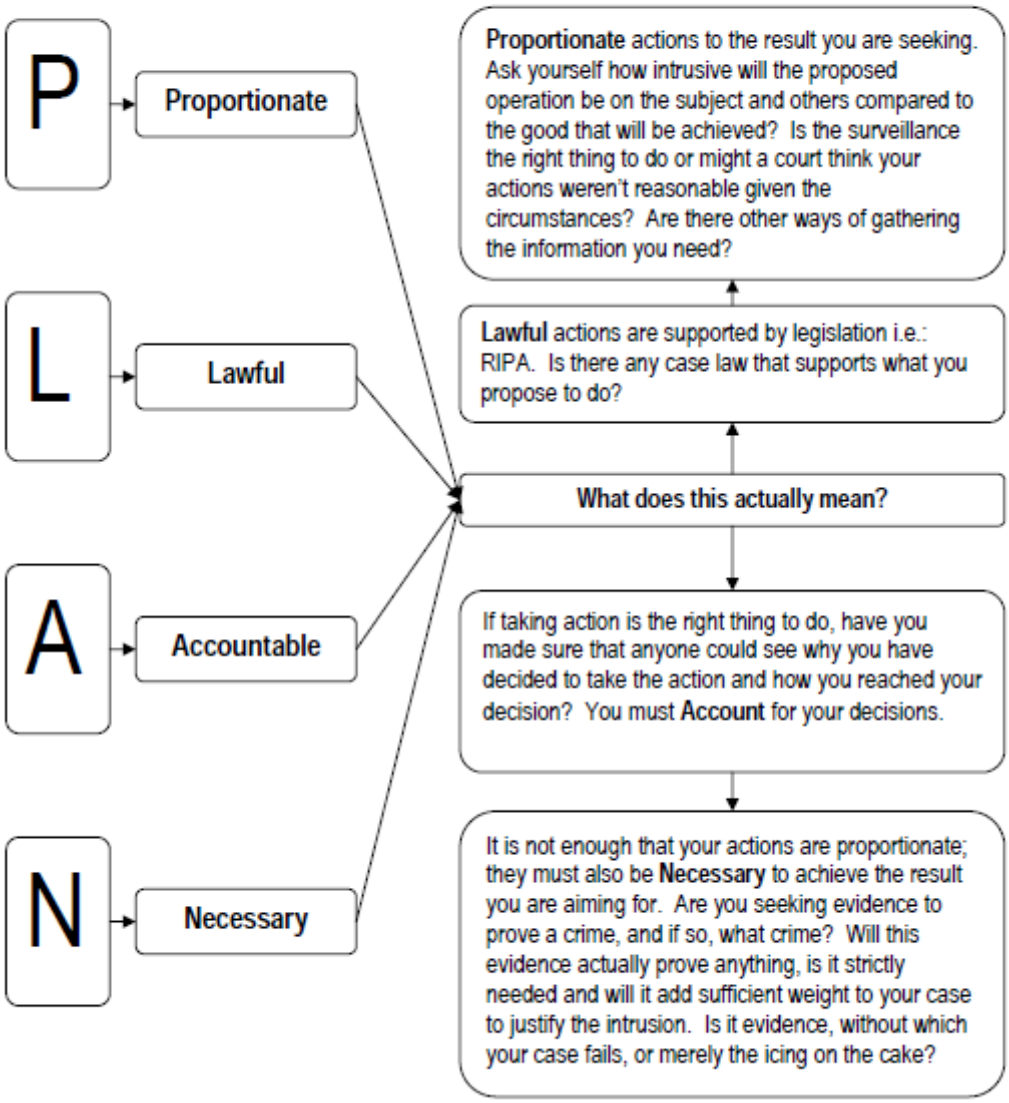
- The Act is available here: http://www.legislation.gov.uk/ukpga/2000/23/contents

- The Office of Surveillance Commissioners website has some useful information and advice and is available here : http://surveillancecommissioners.independent.gov.uk/

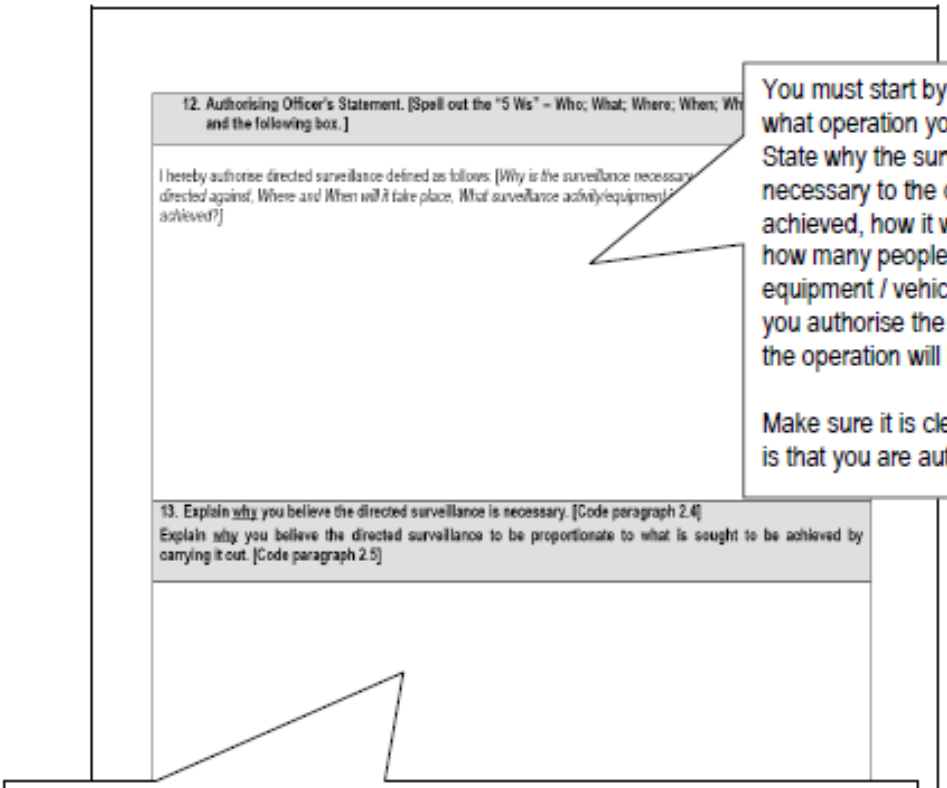
# Appendix 4: Guidance for Authorising Officers

**APPENDIX FOUR**

**Notes for Guidance for Authorisation – Directed Surveillance**



## Authorised Officer's Statement




You must start by fully explaining what operation you are authorising. State why the surveillance is necessary to the case, what will be achieved, how it will be carried out, how many people used, what equipment / vehicles / technology you authorise the use of and where the operation will happen.

Make sure it is clear exactly what it is that you are authorising.

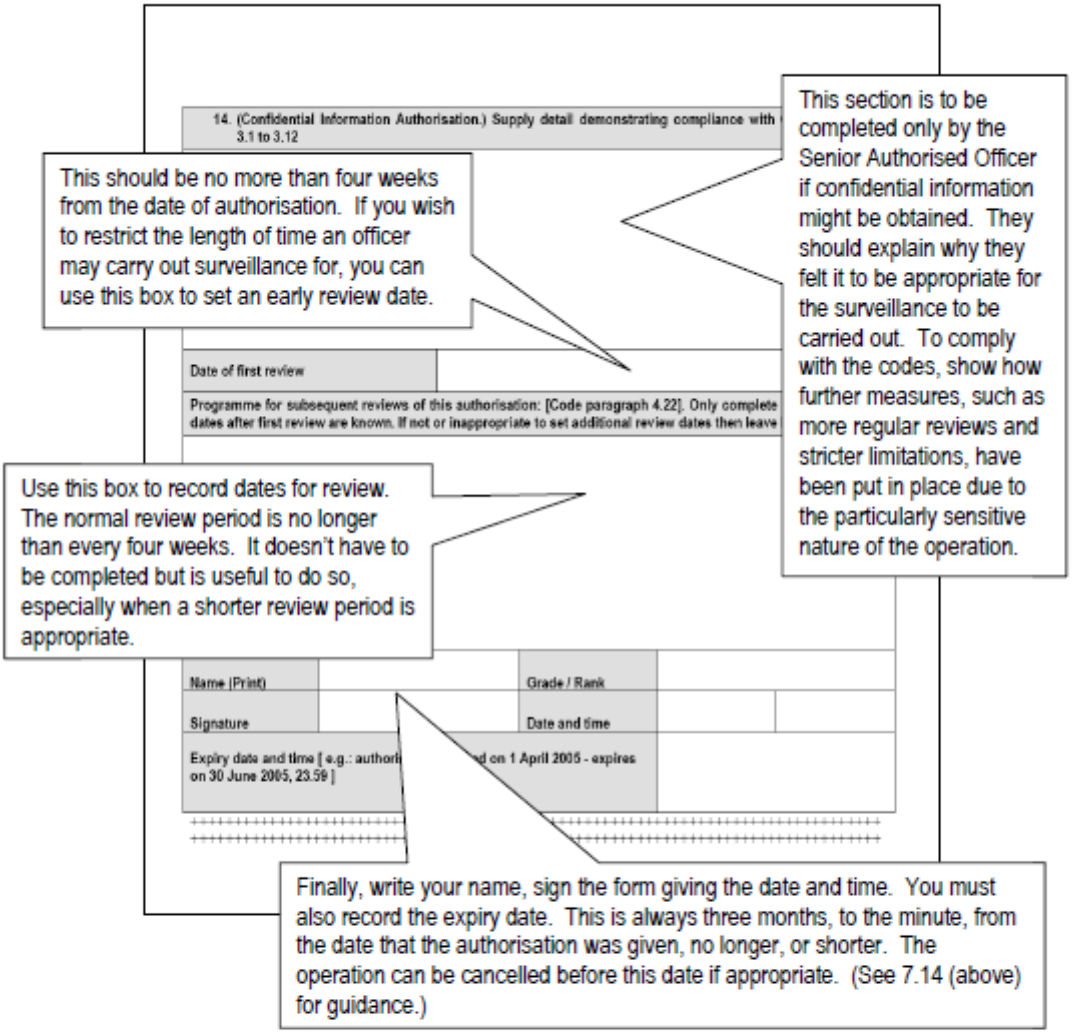
Now you must explain your decision. Simply stating that you "agree with the officer who applied for the reasons they gave" is not acceptable. You must give, in your own words, a detailed account of how you came to decide that the operation was necessary and proportionate. Make sure that you review the guidance in section seven and show how the evidence is necessary to the offence, and how the offence is one that it is necessary to investigate. Now ensure that you demonstrate how the officer has shown the need to obtain the evidence to be proportionate, when balanced against the person's expectation of privacy, the privacy of innocent third parties and the seriousness of the offence.

**If you have completed a surveillance authorisation worksheet, go back over this as you should have already stated your reasons there.**

You must explain why you feel it is in the public interest to carry out the action; is it serious, prevalent in the area, an abuse of position, premeditated? Why do you think that the investigation will be prejudiced without surveillance? Are you certain there is no other obvious and less intrusive way of obtaining the information? Does it need to be done? Record everything in this section.

**This section must stand on its own, if you are called to court to justify your authorisation.**

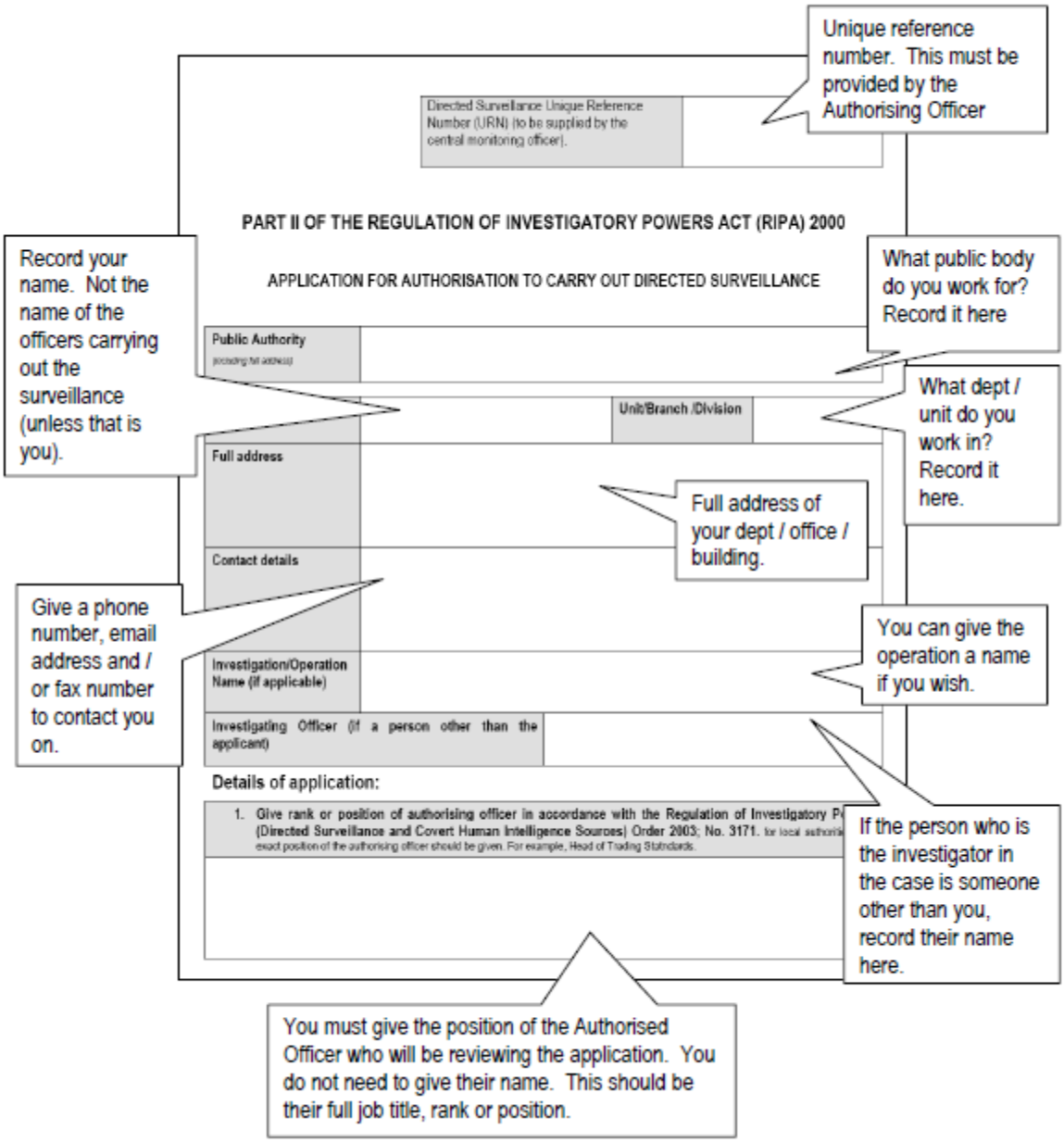
## Authorised Officer's Statement



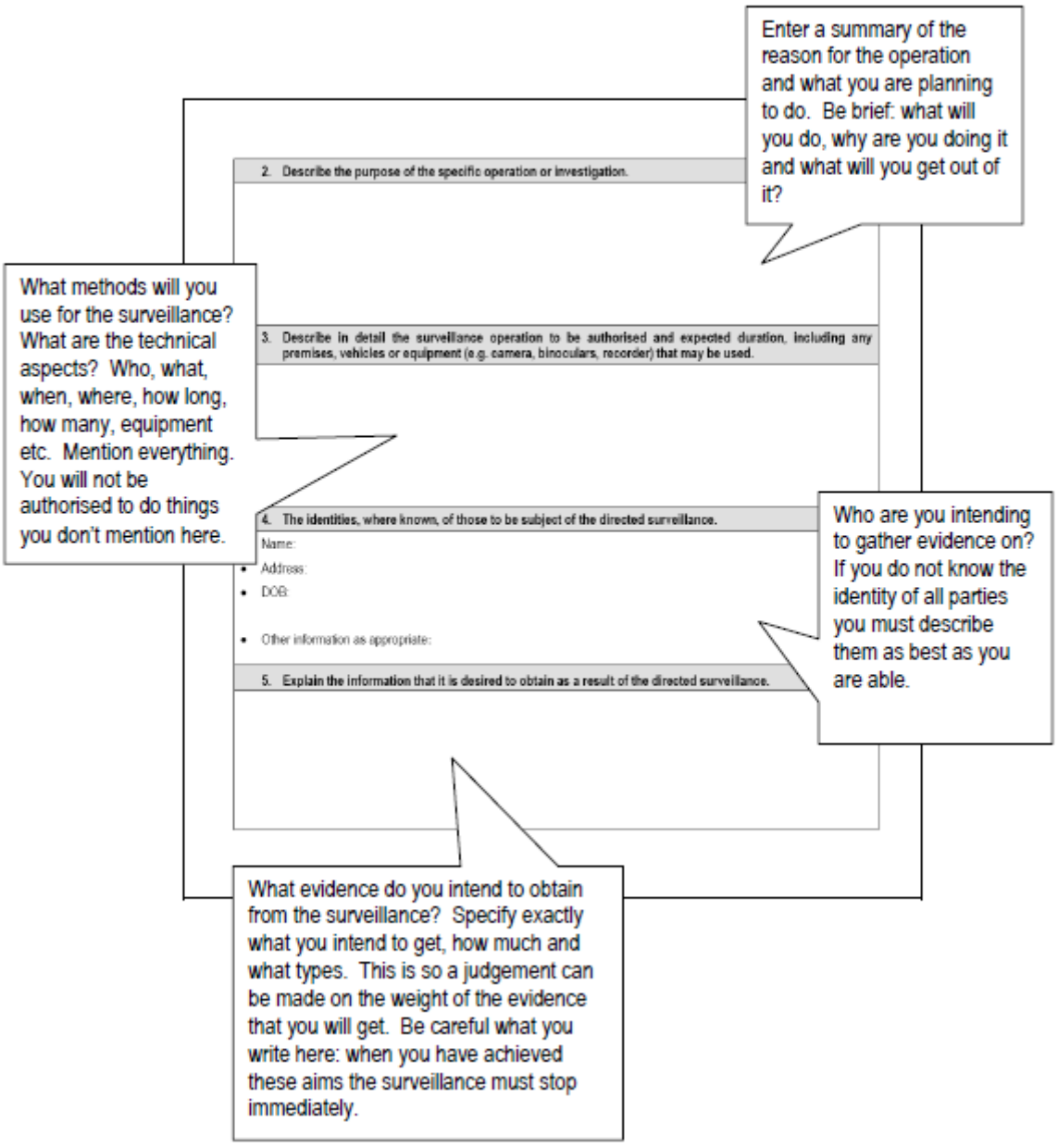

**Sections 15 and 16:**
These sections relate to oral authorisations that may be granted or renewed only in urgent cases. In the case that an oral authorisation is granted, the AO should record the reasons why they considered the case urgent and why they believed it was not practicable to delay in order for the investigator to complete an application. Urgent oral authorisations last for seventy-two hours from the time of the authorisation. The officer carrying out the surveillance must complete a written application at the earliest opportunity, not necessarily at the end of the seventy-two hours.

# Appendix 5: Guidance for Applicants

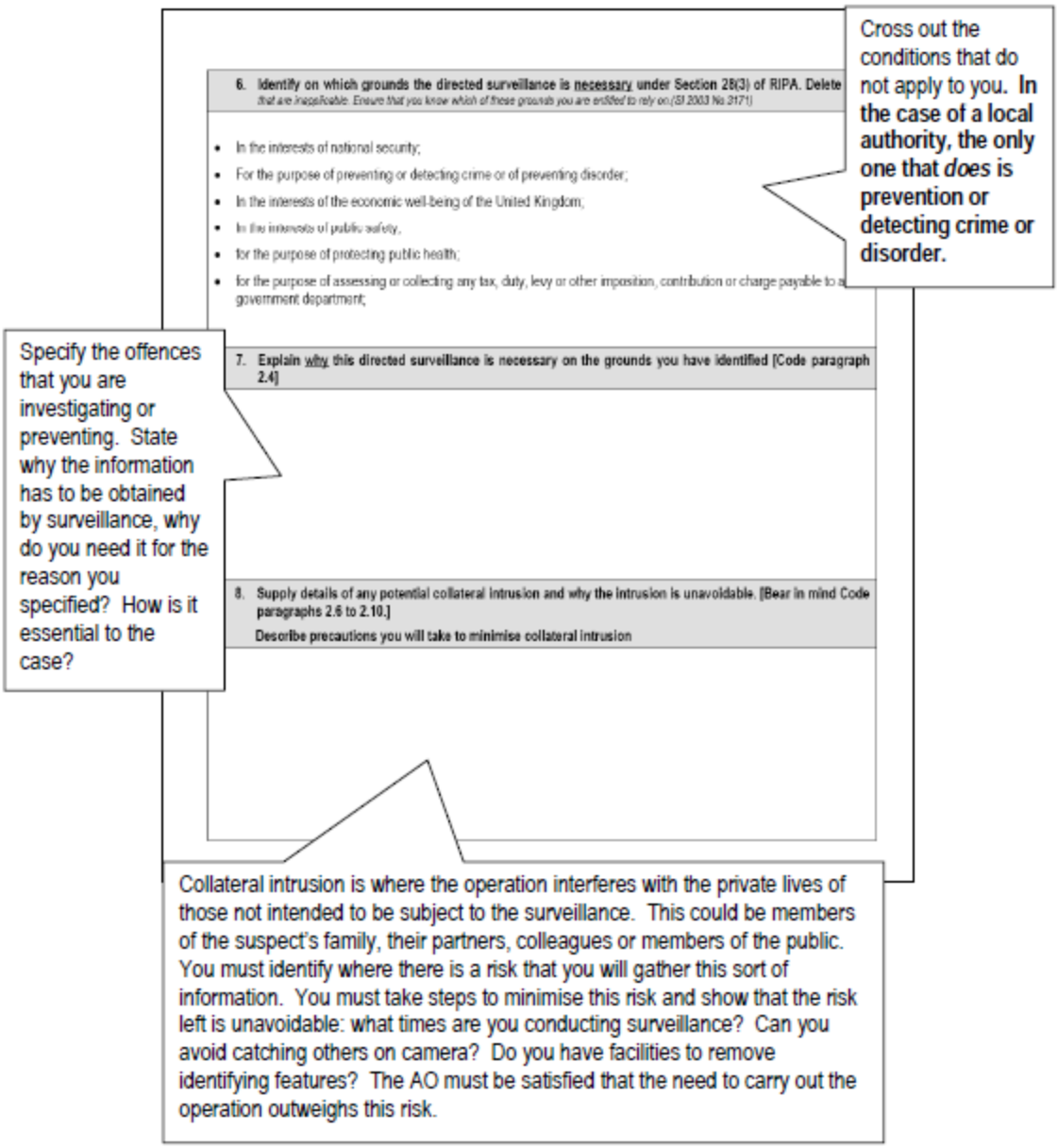
## The RIPA 1 Form – Guidance Notes on Completion



# Page Two

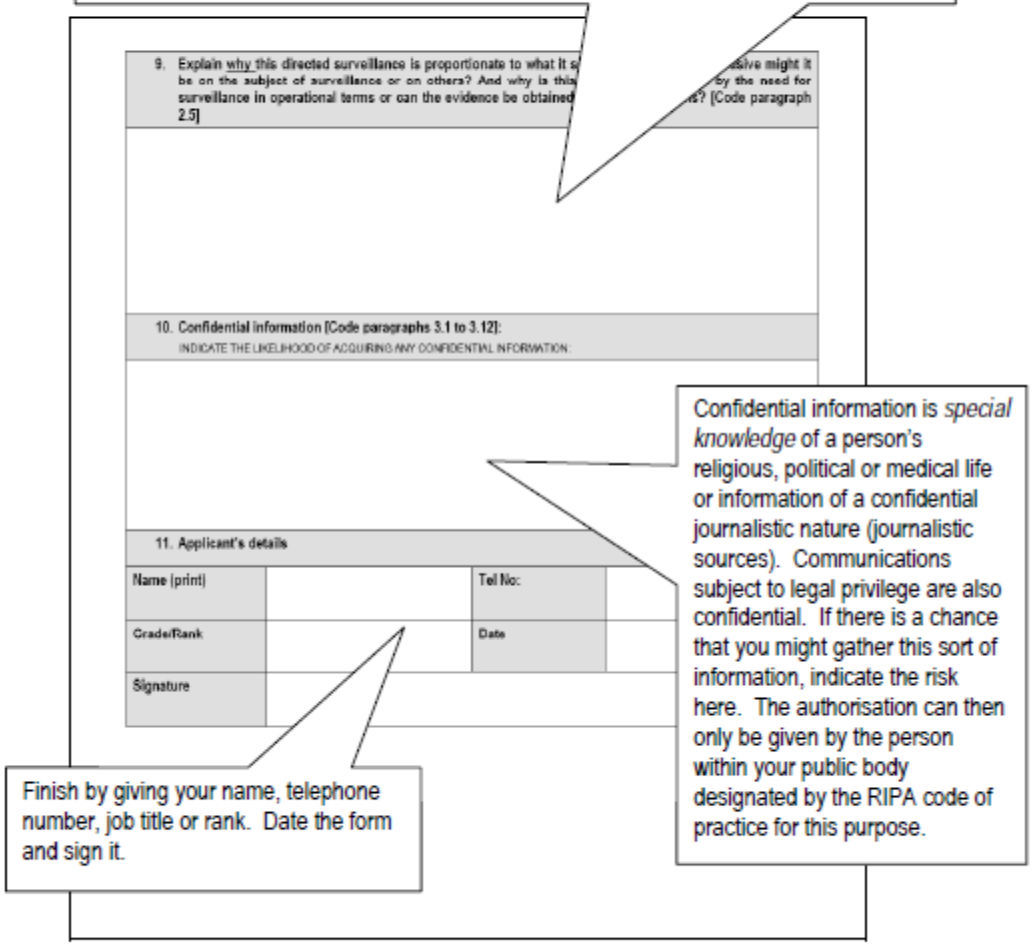

Enter a summary of the reason for the operation and what you are planning to do. Be brief: what will you do, why are you doing it and what will you get out of it?
2. Describe the purpose of the specific operation or investigation.
What methods will you use for the surveillance? What are the technical aspects? Who, what, when, where, how long, how many, equipment etc. Mention everything. You will not be authorised to do things you don't mention here.
3. Describe in detail the surveillance operation to be authorised and expected duration, including any premises, vehicles or equipment (e.g. camera, binoculars, recorder) that may be used.
4. The identities, where known, of those to be subject of the directed surveillance.
Name:
Address:
DOB:
Other information as appropriate:
Who are you intending to gather evidence on? If you do not know the identity of all parties you must describe them as best as you are able.
5. Explain the information that it is desired to obtain as a result of the directed surveillance.
What evidence do you intend to obtain from the surveillance? Specify exactly what you intend to get, how much and what types. This is so a judgement can be made on the weight of the evidence that you will get. Be careful what you write here: when you have achieved these aims the surveillance must stop immediately.

# Page Three


6. Identify on which grounds the directed surveillance is necessary under Section 28(3) of RIPA. Delete that are inapplicable. Ensure that you know which of these grounds you are entitled to rely on (SI 2003 No 3171)
In the interests of national security;
For the purpose of preventing or detecting crime or of preventing disorder;
In the interests of the economic well-being of the United Kingdom;
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 a government department;
7. Explain why this directed surveillance is necessary on the grounds you have identified [Code paragraph 2.4]
8. Supply details of any potential collateral intrusion and why the intrusion is unavoidable. [Bear in mind Code paragraphs 2.6 to 2.10.]
Describe precautions you will take to minimise collateral intrusion
Cross out the conditions that do not apply to you. In the case of a local authority, the only one that does is prevention or detecting crime or disorder.
Specify the offences that you are investigating or preventing. State why the information has to be obtained by surveillance, why do you need it for the reason you specified? How is it essential to the case?
Collateral intrusion is where the operation interferes with the private lives of those not intended to be subject to the surveillance. This could be members of the suspect's family, their partners, colleagues or members of the public. You must identify where there is a risk that you will gather this sort of information. You must take steps to minimise this risk and show that the risk left is unavoidable: what times are you conducting surveillance? Can you avoid catching others on camera? Do you have facilities to remove identifying features? The AO must be satisfied that the need to carry out the operation outweighs this risk.

# Page Four

This is where you must justify your actions as proportionate. You should have completed a planner and decided that surveillance is necessary and the last resort. Record here what you have done already and what you cannot do as it'll prejudice the investigation. Tell the AO why the need to carry out the action outweighs the suspect's right to privacy. How serious is the matter? How intrusive will the operation be on the suspect and on others? What might happen if you don't carry out surveillance? Why can't you get the information in other ways? What will be achieved by gathering the evidence?




Confidential information is *special knowledge* of a person's religious, political or medical life or information of a confidential journalistic nature (journalistic sources). Communications subject to legal privilege are also confidential. If there is a chance that you might gather this sort of information, indicate the risk here. The authorisation can then only be given by the person within your public body designated by the RIPA code of practice for this purpose.

Finish by giving your name, telephone number, job title or rank. Date the form and sign it.