



Corporate Governance Committee – 15th March 2010

REGULATION OF INVESTIGATORY POWERS ACT 2000

Report of LEGAL & DEMOCRATIC SERVICES MANAGER

(This matter is the responsibility of Councillor Ross Henley, Leader of the Council)

1. Purpose of the Report

1.1 To authorise the RIPA policy for this Authority.

2. Background

2.1 Every local authority is required to have a policy under this legislation in order to ensure that all the relevant processes and procedures are in place to carry out covert surveillance. This policy should be regularly reviewed and members will note the dates for this to occur.

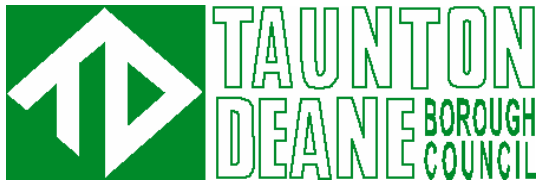
2.2 Following a recent consultation process it has been suggested that members should have more involvement in this process in terms of a strategic and scrutiny role in connection with this legislation. Therefore it was felt appropriate that this Committee should authorise this Council's policy rather than it being the Chief Executive. This will give members ownership of the policy and should form the basis of any scrutiny role that members wish to undertake.

2.3 It should be noted that in addition to the monitoring by this committee the Council is subject to regular three yearly inspections by the Office of Surveillance Commissioners and it is anticipated that a further inspection will taken place sometime next year.

3. Recommendation

3.1 To authorise the RIPA policy.

For further information please contact Tonya Meers, Legal & Democratic Services Manager on 01823 356391 or t.meers@tauntondeane.gov.uk



CORPORATE POLICIES AND PROCEDURES ON THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

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CONTENTS PAGE

	Page No
A Introduction and Key Messages	3
B Council Policy Statement	4
C Effective Date of Operation and Authorised Officer Responsibilities	5
D General Information on RIPA	6
E What RIPA Does and Does Not Do	7
F Types of Surveillance	8
G Conduct and Use of a Covert Human Intelligence Sources (CHIS)	11
H Authorisation Procedures	13
I Working with / through Other Agencies	17
J Records Management	18
K Material obtained during investigations	19
L Amendments to this document	20
M Complaints Handling	21
N Useful Contacts	22
O Concluding Remarks of the Legal and Democratic Services Manager	23
Appendix 1 - List of Authorised Officer Posts	24
Appendix 2 - RIPA Flow Chart	25
Appendix 3 - RIPA Certificate of RIPA Eligibility	26
Appendix 4 - RIPA A forms: Directed Surveillance	27
Appendix 5 - RIPA B forms: Covert Human Intelligence Source (CHIS)	46
Appendix 6 - Examples of Covert Surveillance	67

A. Introduction and Key Messages

1. This Policy & Procedures Document is based upon the requirements of the Regulation of Investigatory Powers Act 2000 ('RIPA') and the Home Office's Code of Practices on Covert Surveillance and Covert Human Intelligence Sources (covert surveillance would be used only rarely and in exceptional circumstances).
2. The authoritative position on RIPA is, of course, the Act itself and any Officer who is unsure about any aspect of this document should contact, at the earliest possible opportunity, the Legal and Democratic Services Manager, for advice and assistance.
3. Copies of this document and related forms will be placed on the intranet, once this Document has been approved by the Council and the Office of Surveillance Commissioners. This guide (but not the RIPA forms or the list of Authorising Officers) will be placed on the TDBC website.
4. The Legal and Democratic Services Manager will maintain (and check) the Corporate Register of all RIPA authorisations, reviews, renewals, cancellations and rejections. However, it is the responsibility of the relevant Authorised Officer to ensure that the Legal and Democratic Services Manager receives a copy of the relevant forms within 1 week of authorisation, review, renewal, cancellation or rejection.
5. RIPA and this document are important for the effective and efficient operation of the Council's actions with regard to covert surveillance and Covert Human Intelligence Sources. This document will, therefore, be kept under 12-monthly review by the Legal and Democratic Services Manager. Authorised Officers must bring any suggestions for the improvement of this document to the attention of the Legal and Democratic Services Manager at the earliest possible opportunity. The Council takes responsibility for ensuring that RIPA procedures are continuously improved.
6. The Legal and Democratic Services Officer is the Council's nominated Single Point of Contact (SPOC) Officer who will be the normal point of contact for the Surveillance Commissioner and will field enquiries relating to RIPA.
7. If you are in any doubt on RIPA, this document or the related legislative provisions, please consult the Legal and Democratic Services Manager or at the earliest possible opportunity.

B. Council Policy Statement

1. The Council takes its statutory responsibilities seriously and it will at all times act in accordance with the law and take action that is both necessary and proportionate to the discharge of such statutory responsibilities. In that regard, the Legal and Democratic Services Manager is duly authorised by the Council to keep this document up to date and to amend, delete, add or substitute relevant provisions, as necessary. For administrative and operational effectiveness, the Legal and Democratic Services Manager is also authorised to add or substitute Officers authorised for the purposes of RIPA.

C. Effective Date of Operation : 1 March 2009 and Authorised Officer Responsibilities

1. The Corporate Policy, Procedures and the forms provided in this document will become operative with effect from the date of the Policy's approval.
2. Prior to the operative date, the Legal and Democratic Services Manager will ensure that sufficient numbers of Authorised Officers are (after suitable training on RIPA and this document) duly certified to take action under this document.
3. Authorised Officers will also ensure that staff who report to them follow this Policy & Procedures Document and do not undertake or carry out any form of surveillance without first obtaining the relevant authorisations in compliance with this document.
4. Authorised Officers must also pay particular attention to Health and Safety issues that may be raised by any proposed surveillance activity. Under no circumstances should an Authorised Officer approve any RIPA form unless and until s/he is satisfied that the health and safety of Council employees has been suitably addressed, and/or risks minimised so far as is possible, and that those health and safety considerations and risks are proportionate to/with the surveillance being proposed. If an Authorised Officer is in any doubt, s/he should obtain prior guidance.
5. Authorised Officers must also ensure that when sending copies of any forms to the Legal and Democratic Services Manager, (or any other relevant authority), the same are sent in SEALED envelopes and marked 'Strictly Private & Confidential'.

D. General Information on RIPA

1. The Human Rights Act 1998 (which brought much of the European Convention on Human Rights and Fundamental Freedoms 1950 into UK domestic law) requires the Council (and organisations working on its behalf) to respect the private and family life of citizens, their home and their correspondence. See Article 8 of the European Convention.
2. The European Convention did not, however, make this an absolute right, but a qualified right. Accordingly, in certain circumstances, the Council may interfere with the citizen's right mentioned above, if such interference is:
 - (a) in accordance with the law;
 - (b) necessary (as defined in this document); and
 - (c) proportionate (as defined in this document).
3. 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, informers. 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, RIPA seeks to ensure that both the public interest and the human rights of individuals are suitably balanced.
4. Directly employed Council staff and external agencies working for the Council are covered by RIPA during the time they are working for the Council. Therefore, all external agencies must comply with RIPA and work carried out by agencies on the Council's behalf must be properly authorised by one of the Council's designated Authorised Officers. Authorised Officers are those whose posts appear in Appendix (1) to this document (as added to or substituted by the Legal and Democratic Services Manager).
5. If the correct procedures are not followed, evidence may be disallowed by the courts, a complaint of maladministration may be made to the Ombudsman, and/or the Council may be ordered to pay compensation. Were this to happen the good reputation of the Council will be damaged and it will undoubtedly be the subject of adverse press and media interest. Therefore, it is essential that all involved with RIPA comply with this document and any further guidance that may be issued from time to time by the Legal and Democratic Services Manager.
6. A flowchart of the procedures to be followed appears at Appendix (2).

E. What RIPA Does and Does Not Do

1. RIPA does:
 - require - prior authorisation of directed surveillance.
 - prohibit - the Council from carrying out intrusive surveillance.
 - require - authorisation of the conduct and use of a CHIS.
 - require - safeguards for the conduct and use of a CHIS.

2. RIPA does not:
 - make unlawful conduct which is otherwise lawful.
 - prejudice or disapply any existing powers available to the Council to obtain information by any means not involving conduct that may be authorised under RIPA. 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.

3. If the Authorised Officer or any Applicant is in any doubt, s/he should ask the Legal and Democratic Services Manager before any directed surveillance and/or CHIS is authorised, renewed, cancelled or rejected.

F. Types of Surveillance

1. 'Surveillance' includes
 - monitoring, observing, listening to people, 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.

2. Overt Surveillance

Most of the surveillance carried out by the Council will be done overtly - 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 and/or will be going about Council business openly.

3. Similarly, surveillance will be overt if the subject has been told it will happen.

4. 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) of RIPA).

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

6. Directed Surveillance

Directed Surveillance is surveillance which:-

- is covert; and
- is not intrusive surveillance (see definition below - the Council must not carry out any 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

- 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). (Section 26(10) of RIPA).

7. 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.
8. Similarly, although overt town centre CCTV cameras do not normally require authorisation, authorisation will be required if the camera is tasked for a specific purpose which involves prolonged surveillance on a particular person. The way a person runs his/her business may also reveal information about his or her private life and the private lives of others.
9. For the avoidance of doubt, only those Officers designated and certified to be 'Authorised Officers' for the purpose of RIPA can authorise 'Directed Surveillance' if, and only if, the RIPA authorisation procedures detailed in this document are followed. If an Authorised Officer has not been 'certified' for the purposes of RIPA, s/he cannot carry out or approve/reject any action set out in this Corporate Policy & Procedures Document.

Further, an Authorised Officer for RIPA purposes cannot delegate his/her power of authorisation to another officer unless that officer is also an Authorised Officer for RIPA purposes (and listed in Appendix 1), in which case that officer would be authorising in his own right. If in doubt, check with the Legal and Democratic Services Manager. Officers will bear personal responsibility for ensuring correct RIPA authorisation procedures.

10. Surveillance that is unforeseen and undertaken as an immediate response to a situation normally falls outside the definition of directed surveillance and therefore authorisation is not required. However, if a specific investigation or operation is subsequently to follow, authorisation must be obtained in the usual way before it can commence. In no circumstance will any covert surveillance operation be given backdated authorisation after it has commenced.

11. **Intrusive Surveillance**

This is when surveillance:

- 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.

12. Intrusive surveillance can be carried out only by police and other law enforcement agencies. Council Officers must not carry out intrusive surveillance.

13. **Examples of different types of Surveillance**

Type of Surveillance	Examples
Overt	<ul style="list-style-type: none"> - Police Officer or Parks Warden on patrol. - Signposted Town Centre CCTV cameras (in normal use). - Most test purchases (where the officer behaves no differently from a normal member of the public).
Covert but not requiring prior authorisation	<ul style="list-style-type: none"> - CCTV cameras providing general traffic, crime or public safety information.
Directed (must be RIPA authorised)	<ul style="list-style-type: none"> - Officers follow an individual or individuals over a period, to establish whether s/he is working when claiming benefit or genuinely on long term sick leave from employment. - Test purchases where the officer has a hidden camera or other recording device to record information which 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 - (Council cannot do this)	<ul style="list-style-type: none"> - Planting a listening or other device (bug) in a person's home or in their private vehicle.
(See Appendix 6)	(Examples of different types of surveillance)

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

Who is a CHIS?

1. Someone who establishes or maintains a personal or other relationship for the covert purpose of covertly using or covertly disclosing information obtained by that relationship. In common parlance, an informer or 'under cover' Council Officer.
2. RIPA does not apply in circumstances where members of the public volunteer information to the Council as part of their normal civic duties, or where the public contact telephone numbers set up by the Council to receive information.

What must be authorised?

3. The Conduct or Use of a CHIS require prior authorisation.
 - Conduct of a CHIS = Establishing or maintaining a personal or other relationship with a person for the covert purpose of (or incidental to the covert purpose of) obtaining and passing on information.
 - Use of a CHIS = Covers inducing, asking, or assisting a person to act as a CHIS and the decision to use a CHIS in the first place.
4. The Council can use CHIS's if, and only if, the RIPA procedures, detailed in this document are followed.

Juvenile Sources

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

Vulnerable Individuals

6. 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.
7. A Vulnerable Individual will only be authorised to act as a source in the most exceptional of circumstances.

Test Purchases

8. Carrying out test purchases will not (as highlighted above) require the purchaser to establish a relationship with the supplier for 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).
9. 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 for directed surveillance.

Anti-social behaviour activities (e.g. noise, violence, race etc.)

10. Persons who complain about anti-social behaviour (such as playing music too loudly) and who are asked to keep a diary of incidents 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; therefore, it does not require authorisation.
11. Recording sound on private premises could constitute intrusive surveillance unless it is done overtly. It will be possible to record noise levels without it being intrusive surveillance if the noisemaker is given written warning that such recording or monitoring will occur. (Such a warning should be repeated at least every 2 months if the operation is on-going). Placing a stationary or mobile video camera outside a building to record anti-social behaviour on residential estates will require prior authorisation.

Noise recordings should only ever be made from a complainant's property or land that is open to the public. Covert recording within the premises of the alleged noise-maker would constitute Intrusive Surveillance, and is not permitted for Council Staff.

H. Authorisation Procedures

1. 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 authorisation process from application consideration to recording of information.

Authorised Officers

2. Forms can only be signed by Authorised Officers who hold a Certificate of RIPA Eligibility from the Legal and Democratic Services Manager as shown in Appendix (3). Authorised Officer posts are listed in Appendix (1). This Appendix will be kept up to date by the Legal and Democratic Services Manager and added to as needs require. The Legal and Democratic Services Manager has been duly authorised to add, delete or substitute posts listed in Appendix (1).
3. As already mentioned, RIPA authorisations are for specific investigations only, and they must be renewed or cancelled once the specific surveillance is complete or about to expire. The authorisations do not lapse with time!

Training Records

4. Proper training will be given or approved by the Legal and Democratic Services Manager before Authorised Officers are issued with a Certificate of RIPA Eligibility enabling them to sign any RIPA forms. The issue of a Certificate of RIPA Eligibility will also have the dual purpose of confirming that the Officer has been RIPA trained and a Corporate Register of all those individuals who have been issued with such Certificates will be kept by the Legal and Democratic Services Manager.
5. If the Legal and Democratic Services Manager feels at any time that an Authorised Officer has not complied fully with the requirements of this document, or the training provided to him, the Legal and Democratic Services Manager is duly authorised to retract that Officer's Certificate of RIPA Eligibility until s/he has undertaken further approved training. Were this to happen the Officer could no longer authorise RIPA Procedures.

Application Forms

6. Only the approved RIPA forms set out in this document must be used.
7. **'A Forms' (Directed Surveillance) - See Appendix (4)**

Form A 1	Application for Authority for Directed Surveillance
Form A 2	Renewal of Directed Surveillance Authority
Form A 3	Review of Directed Surveillance Authority
Form A 4	Cancellation of Directed Surveillance

8. 'B Forms' (CHIS) - See Appendix (5)

Form B 1	Application for Authority for Conduct and Use of a CHIS
Form B 2	Renewal of Conduct and Use of a CH IS
Form B 3	Review of Conduct and Use of a CHIS
Form B 4	Cancellation of Conduct and Use of a CHIS

Grounds for Authorisation

9. Directed Surveillance ('A' Forms) or the Conduct and Use of the CHIS ('B' Forms) can be authorised by the Council only for the prevention or detection of crime.

Assessing the Application Form

10. Before an Authorised Officer signs a form, s/he must:
- (a) Be mindful of this Policy & Procedures Document, the training provided or approved by the Legal and Democratic Services Manager and any other guidance issued, from time to time, by the Legal and Democratic Services Manager on such matters;
 - (b) Satisfy his/herself that the RIPA authorisation is:
 - (i) in accordance with the law;
 - (ii) necessary in the circumstances of the particular case on one of the grounds mentioned in paragraph 9 above; and
 - (iii) proportionate to what it seeks to achieve.
 - (c) In assessing whether or not the proposed surveillance is proportionate, consider other appropriate means of gathering the information. The least intrusive method will be considered proportionate by the courts.
 - (d) Take into account the risk of intrusion into the privacy of persons other than the specified subject of the surveillance (Collateral Intrusion). Measures must be taken wherever practicable to avoid or minimise (so far as is possible) unnecessary collateral intrusion into the lives of those not directly connected with the investigation or operation. This matter may be an aspect of determining proportionality;
 - (e) Set a date for review of the authorisation and review on only that date;
 - (f) Allocate a Unique Reference Number (URN) for the application as follows:
Year / Group / Number of Application
 - (g) Ensure that the RIPA Service Register is duly completed, and that a copy of the RIPA forms (and any review/cancellation of the same) is forwarded to the Legal and Democratic Services Manager for inclusion in the Corporate Register within one week of the relevant authorisation, review, renewal, cancellation or rejection.

Additional Safeguards when Authorising a CHIS

11. When authorising the conduct or use of a CHIS, the Authorised Officer must also:
 - (a) be satisfied that the conduct and/or use of the CHIS is proportionate to what is sought to be achieved;
 - (b) be satisfied that appropriate arrangements are in place for the management and oversight of the CHIS and these arrangements must address health and safety issues through a risk assessment;
 - (c) consider the likely degree of intrusion of all those potentially affected;
 - (d) consider any adverse impact on community confidence that may result from the use or conduct or the information obtained; and
 - (e) ensure records contain particulars and that they are not available except on a need to know basis.

Urgent Authorisations

12. Urgent authorisations should not be necessary. However, in exceptional circumstances, urgent authorisations may be given orally if the time that will elapse before a written authorisation can be granted will be likely to endanger life or jeopardise the investigation or operation for which the authorisation is being given.
13. It will not be urgent or an exceptional circumstance where the need for authorisation has been neglected or the situation is of the Officer's own making.
14. Urgent authorisations last for no more than 72 hours. They must be recorded in writing on the standard form as soon as practicable and the extra boxes on the form must be completed to explain why the authorisation is urgent.

Duration

15. The form must be reviewed in the time stated, and cancelled once it is no longer needed. The 'authorisation' to carry out/conduct the surveillance lasts for 3 months (from date of authorisation) for Directed Surveillance, and 12 months (from date of authorisation) for a CHIS. Any adjustments to the time period must be made by means of either a cancellation or a renewal.

However, whether or not the surveillance is carried out/conducted in the relevant period has no bearing on the authorisation becoming spent. In other words, the forms do not expire! The forms have to be reviewed and/or cancelled (once they are no longer required).

16. An urgent oral authorisation (if not already ratified in a written authorisation) will cease to have effect after 72 hours, beginning with the time when the authorisation was granted.
17. 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.
18. The renewal will begin on the day when the authorisation would have expired. In exceptional circumstances, renewals may be granted orally in urgent cases (but see above) and they last for a period of seventy-two hours.

I. Working With / Through Other Agencies

1. When another agency has been instructed on behalf of the Council to undertake any action under RIPA, this document and its forms must be used by the Council Officers concerned (in accordance with the normal procedure), the agency advised and kept informed of the various RIPA requirements. They must be made explicitly aware of what they are authorised to do, preferably in writing (with a copy of the written instructions countersigned by the agency by way of acknowledgement of their instructions and returned to the instructing officer). If for reasons of urgency oral instructions are initially given, written confirmation must be sent and acknowledged within 4 working days. Officers must be satisfied that agencies are RIPA competent & RIPA trained before they are used.
2. When some other agency (e.g. Police, Customs & Excise, Inland Revenue etc):
 - (a) Wish to use the Council's resources (e.g. CCTV surveillance systems), that agency must use its own RIPA procedures and before any Officer agrees to allow the Council's resources to be used for the other agency's purposes s/he must obtain a copy of that agency's completed RIPA form for the Council's records (a copy of which must be passed to the Legal and Democratic Services Manager for the Corporate Register) or relevant extracts from the agencies RIPA form which are sufficient for the purposes of protecting the Council and use of its resources;
 - (b) Wish to use the Council's premises for their own RIPA action, the Council Officer concerned should normally co-operate with such a request, unless there are security or other good operational or managerial reasons as to why the Council's premises should not be used for the agency's activities. Suitable insurance or other appropriate indemnities may need to be sought from the other agency to protect the Council's legal position (the Council's insurance officer and/or the Legal and Democratic Services Manager can advise on this issue). In such cases the Council's own RIPA forms should not be used as the Council is only 'assisting' and not being 'involved' in the RIPA activity of the external agency.
3. With regard to 2(a) above, if the Police or other agency wish to use Council resources for general surveillance (as opposed to specific RIPA operations) an appropriate letter requesting the proposed use (and detailing the extent of remit, duration, who will be undertaking the general surveillance and the purpose of it) must be obtained from the Police or other agency before any Council resources are made available for the proposed use. The insurance/indemnity considerations mentioned above may still need to be addressed.
4. In addition should any officer wish to work in partnership with any other agency where the Council intend to share with that other agency any evidence obtained through surveillance activities then the advice of the Head of Legal & Democratic Services should be first sought.
5. If in doubt, please consult with the Legal and Democratic Services Manager at the earliest opportunity.

J. Records Management

1. The Council must keep a detailed record of all authorisations, renewals, cancellations and rejections generated by officers and a Corporate Register of all Authorisation forms will be maintained and monitored by the Legal and Democratic Services Manager.

2. **Records maintained by individual services**

The following documents must be retained:

- a copy of any completed application form together with any supplementary documentation and notification of the approval given by the Authorised Officer;
 - a record of the period over which the surveillance has taken place;
 - the frequency of reviews prescribed by the Authorised Officer;
 - a record of the result of each review of the authorisation;
 - a copy of any renewal of an authorisation, together with the supporting documentation submitted when the renewal was requested;
 - a copy of any cancellation of an authorisation;
 - the date and time when any instruction was given by the Authorised Officer;
 - the Unique Reference Number for the authorisation (URN).
3. Each form will have a URN. The cross-referencing of each URN takes place within the forms for audit purposes. The relevant code to be followed is shown in Appendix 1. Rejected forms will also have URN's.

Corporate Register maintained by the Legal and Democratic Services Manager

4. Authorised Officers must forward details of each form to the Legal and Democratic Services Manager for the Corporate Register within 1 week of the authorisation, review, renewal, cancellation or rejection. The Legal and Democratic Services Manager will monitor the same and give appropriate guidance from time to time or amend this document, as necessary.
5. The Council will retain records for a period of at least three years from the ending of the authorisation. The Office of the Surveillance Commissioners (OSC) can audit/review the Council's policies and procedures, and individual authorisations.

K. Material obtained during investigations

1. Generally, all material (in whatever media) obtained or produced during the course of investigations subject to RIPA authorisations should be processed, stored and destroyed in accordance with the requirements of the Data Protection Act 1998, the Freedom of Information Act 2000, any other legal requirements including those of confidentiality. The following paragraphs give guidance on some specific situations, but advice should be sought from the Legal and Democratic Services Manager or the Data Protection Officer where appropriate.
2. Where material is obtained during the course of an investigation which might be relevant to that investigation, or another investigation, or to pending or future civil or criminal proceedings, then it should not be destroyed, but retained in accordance with legal disclosure requirements.
3. Where material is obtained, which is not related to a criminal or other investigation or to any person who is the subject of the investigation, and there is no reason to suspect that it will be relevant to any future civil or criminal proceedings, it should be destroyed immediately.
4. Material obtained in the course of an investigation may be used in connection with investigations other than the one that the relevant authorisation was issued for. However, the use or disclosure of such material outside the Council, unless directed by any court order, should only be considered in exceptional circumstances, and in accordance with advice from the Monitoring Officer or the Head of Legal Services.
5. Where material obtained is of a confidential nature then the following additional precautions should be taken:
 - Confidential material should not be retained or copied unless it is necessary for a specified purpose;
 - Confidential material should only be disseminated in accordance with legal advice that it is necessary to do so for a specific purpose;
 - Confidential material which is retained should be marked with a warning of its confidential nature. Safeguards should be put in place to ensure that such material does not come into the possession of any person where to do so might prejudice the outcome of any civil or criminal proceedings;
 - Confidential material should be destroyed as soon possible after its use for the specified purpose.

If there is any doubt as to whether material is of a confidential nature, advice should be sought from the Legal and Democratic Services Manager.

L. Amendments to this guidance document

1. The Legal and Democratic Services Manager is duly authorised to keep this guidance document up to date, and to amend, delete, add or substitute any provisions as s/he deems necessary. For administrative and operational effectiveness, s/he is also authorised to amend the list of ‘Authorising Officer Posts’ set out in Appendix 1, by adding, deleting or substituting any posts.
2. The RIPA Corporate Officers Working Group shall supplement any training requirements with exchanges of experiences in the operation of this document and any recommendations to improve this document will be considered by the Council’s Monitoring Officer.

M. Complaints Handling

1. Taunton Deane Borough Council's Surveillance Complaints Procedure

Complaints concerning breaches of the code may be made to the Council's Chief Executive, Taunton Deane Borough Council, The Deane House, Belvedere Road, Taunton, Somerset, TA1 1HE.

If a complaint is received from a member of the public or a person who has been subject to any form of surveillance the complaint will be referred to the Legal and Democratic Services for investigation.

Thereafter a decision will be taken, as to what action, if any, should be taken in line with the Council's Complaints Policy.

2. Independent Tribunal

The Regulation of Investigatory Powers Act 2000 also establishes an independent tribunal made up of Senior Members of the Judiciary and the Legal Profession and is independent of the government. The tribunal has full powers to investigate and decide any case within its jurisdiction. If a complaint is therefore received from an individual who has been subject to surveillance or by a member of the public then that person or persons should be referred immediately to the Investigatory Powers Tribunal.

The address for the Investigatory Powers Tribunal is PO Box 33220 London SW1H 9ZQ.

N. Useful contacts

- 6.1 Local Authorities Coordinators of Regulatory Services (LACORS) -
www.lacors.gov.uk
- 6.2 Association of Council Secretaries and Solicitors –
www.acses.org.uk
- 6.3 Office of the Surveillance Commissioner –
www.surveillanccommissioners.gov.uk
- 6.4 RIPA website -
<http://security.homeoffice.gov.uk/ripa/>
- 6.5 RIPA forms-
<http://security.homeoffice.gov.uk/ripa/publication-search/ripa-forms/>
- 6.6 RIPA Q&A for Local Authorities-
http://www.surveillanccommissioners.gov.uk/advice_ripa.html
- 6.7 RIPA codes of practice-
<http://security.homeoffice.gov.uk/ripa/publication-search/ripa-cop/>

O. Concluding Remarks of the Legal and Democratic Services Manager/Solicitor to the Council/Monitoring Officer

1. Where there is an interference with the right to respect for private and family life 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 particular circumstances, the consequences of not obtaining or following the correct authorisation procedure set out in RIPA and this document may be that the action taken (and the evidence obtained) will be held to be unlawful by the Courts pursuant to Section 6 of the Human Rights Act 1998. This could result in the Council losing a case and having costs (and possibly damages) awarded against it.
2. Obtaining an authorisation under RIPA and following the procedures set out in this document will ensure that the particular action taken is carried out in accordance with the law and subject to stringent safeguards against abuse of anyone's human rights.
3. Authorised Officers will be suitably trained and they must exercise their minds every time they are asked to sign a form. They must never sign or rubber stamp form(s) without thinking about both their personal responsibilities and the Council's responsibilities under RIPA and the European Convention.
4. 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 that accurate information is used and 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.
5. Those carrying out surveillance must inform the Authorising Officer if the investigation or operation unexpectedly interferes with the privacy of individuals who are not covered by the authorization.
6. For further advice and assistance on RIPA, please contact the Legal and Democratic Services Manager (who is also the Monitoring Officer). Details are provided on the front of this document.

APPENDIX 1

List of Authorised Officer Posts

OVERALL RESPONSIBILITY: KEVIN TOLLER, STRATEGIC DIRECTOR
MONITORING OFFICER: TONYA MEERS, SOLICITOR TO THE COUNCIL/
LEGAL AND DEMOCRATIC SERVICES MANAGER

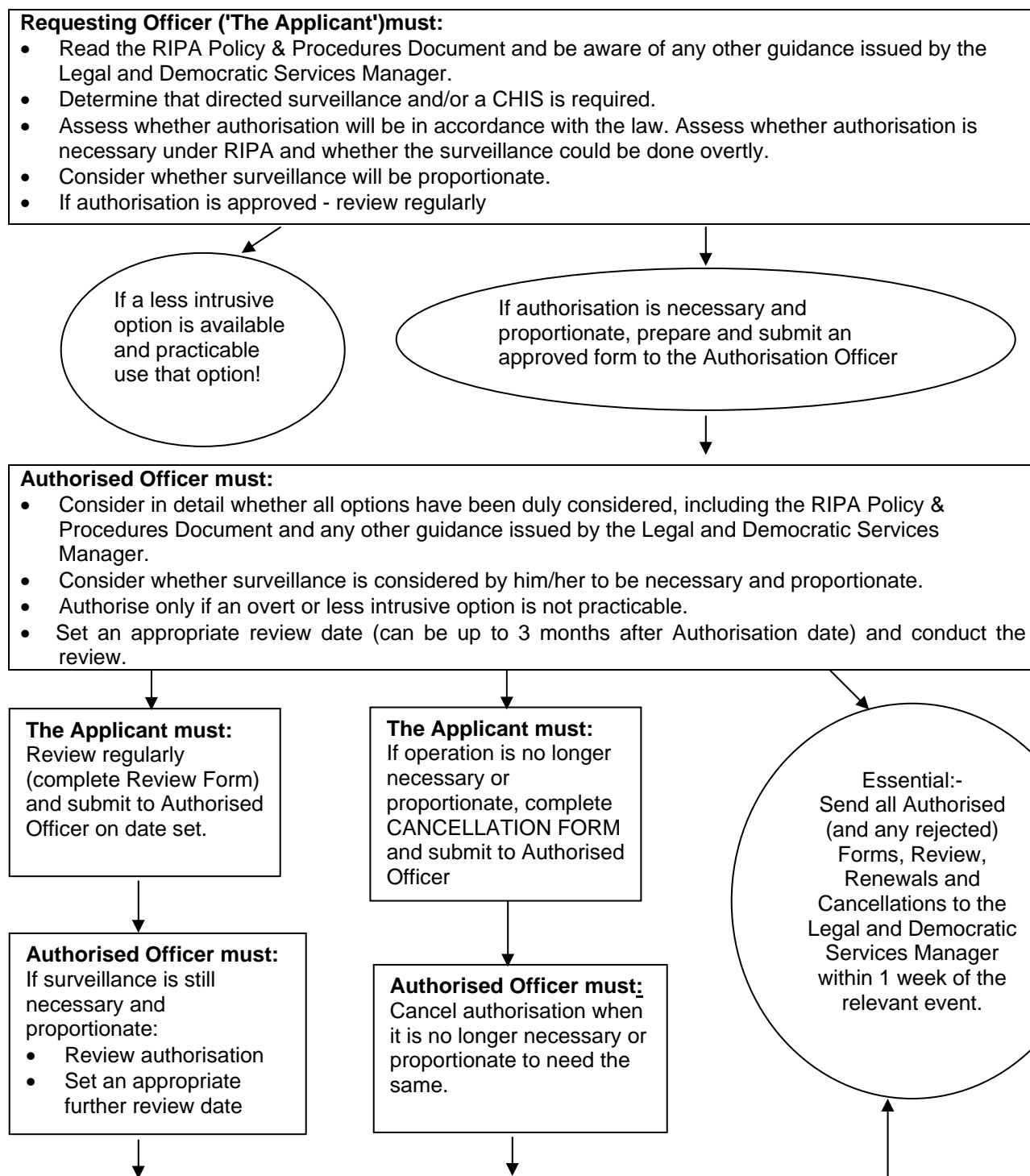
Department	Authorising Officer's Name	Designation
Environmental Health	James Barrah	Chief Environmental Health Officer
Environmental Health	Nigel Kerr	Operations Manager, Environmental Protection
Revenues and Benefits	Heather Tiso	Revenues and Benefits Manager
Housing	John Williams	Housing Operations Manager
Audit	Chris Gunn	Group Auditor
Directorate	Penny James	Chief Executive

IMPORTANT NOTES

- A. Even if a post is identified in the above list the persons currently employed in such posts are not authorised to sign RIPA forms (including a renewal or cancellation) unless s/he has been certified by the Legal and Democratic Services Manager to do so by the issue of a Certificate of RIPA Eligibility.
- B. Only the Chief Executive and the Legal and Democratic Services Manager (Tonya Meers as of March 2009) are authorised to sign forms relating to Juvenile Sources and Vulnerable Individuals (see paragraph G of this document).
- C. Particular care should be taken in cases 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 material. In cases where through the use of surveillance it is likely that knowledge of confidential information will be acquired, the use of surveillance is subject to a higher level of authorization; such authorisations will only be given by the CEO or by Kevin Toller.
- D. If in doubt, ask the Legal and Democratic Services Manager before any directed surveillance and/or CHIS is authorised, renewed, rejected or cancelled.

APPENDIX 2

RIPA FLOW CHART



NB: If in doubt, ask the Legal and Democratic Services Manager before any directed surveillance and/or CHIS is authorised, renewed, cancelled, or rejected.



TAUNTON DEANE BOROUGH COUNCIL

RIPA AUTHORISING OFFICER CERTIFICATE

No. [] / 200-

I HEREBY CERTIFY that the Officer whose personal details are given below is an Authorising Officer for the purposes of authorising covert surveillance and the use and/or conduct of Covert Human Intelligence Sources ('CHIS') under the provisions of the Regulation of Investigatory Powers Act 2000.

It is further certified that this Officer has received training to perform such authorisation procedures.

Certificate issued to:
[Full name of Officer] _____

Job Title: _____

Service: _____

Location: _____

Certificate date: _____

(signed) _____

Tonya Meers
Monitoring Officer/Solicitor to the Council/Legal & Democratic Services Manager
(Taunton Deane Borough Council)

(Please note:- This certificate and the authorisation granted by it is personal to the officer named in it and cannot be transferred. Any change in personal details must be notified in writing to the Legal and Democratic Services Manager immediately. This certificate can be revoked at any time by the Legal and Democratic Services Manager by written revocation issued to the officer concerned. It is the named officer's personal responsibility to ensure full compliance with RIPA authorisation procedures and to ensure that s/he is fully trained in such procedures and that such training is kept up to date).

APPENDIX 4

RIPA 'A' FORMS: DIRECTED SURVEILLANCE

Form A1 : Application for authorisation to carry out directed surveillance.

Form A2 : Application for Renewal of Form A1.

Form A3 : Review of Form A1.

Form A4 : Cancellation of Form A1.



STRICTLY PRIVATE AND CONFIDENTIAL

**FORM A1
APPLICATION FOR AUTHORISATION TO CARRY OUT
DIRECTED SURVEILLANCE**

**PART II OF THE REGULATION OF INVESTIGATORY
POWERS ACT 2000 (RIPA)**

Guidance Note:

1. After [] only Authorised Officers who have been certified by the Legal and Democratic Services Manager will be allowed to sign RIPA forms.
2. Applicants and Authorised Officers must comply, in full, with the Act and the Council's RIPA Policy & Procedures Document and any other guidance issued by the Legal and Democratic Services Manager. If in doubt, contact Tonya Meers, Legal and Democratic Services Manager, The Deane House, Belvedere Road, Taunton, TA1 1HE. Tel: 01823 356406
3. Copies of completed forms must be sent (once authorised or rejected) to the Legal and Democratic Services Manager within one week of the authorisation, rejection, renewal or cancellation for the Corporate Register.
4. All boxes in this form must be completed. 'not applicable', N/A or lines must be put through irrelevant boxes.

SECTION 1 (to be completed by the Applicant)

Subject of surveillance		Unique Identification Number (UNI):	/ /
			Year / Group / Number

Name of Applicant:		Unit/Division:	
Full Address:			
Contact Details:			
Investigation/Operation Name (if applicable):			

1. Give Job Title of Authorised Officer:

2. Describe the conduct to be authorised and the purpose of the investigation or operation

3. Identify under which grounds the directed surveillance is necessary under Section 28(3) of RIPA: (delete as necessary)

- In the interests of national security;
- For the purpose of preventing or detecting crime or of preventing further 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

4. Explain why directed surveillance is necessary in this particular case:

5. Explain why the directed surveillance is proportionate to what it seeks to achieve:

6. The nature of the surveillance to be authorised, including any premises or vehicles involved:

7. Investigation or operation to be carried out. The identities, where known, of those to be the subject of the directed surveillance:

- Name: _____
- Address: _____
- DOB: _____
- Other information as appropriate: _____

8. Explanation of the information which it is desired to obtain as a result of the directed surveillance:

9. Details of any potential collateral intrusion and why the intrusion is unavoidable:
Include a plan to minimize collateral damage.

--

10. Confidential information:
Indicate the likelihood of acquiring any confidential information.

--

11. Anticipated Start:

Date:

Time:

12. Applicant's Details:

Name
(print): _____

Tel No: _____

Job Title: _____

Date: _____

Signature: _____

SECTION 2 (To be completed by the Authorised Officer)

13. Authorised Officer's comments explaining why in his/her view the directed surveillance is necessary and proportionate. This box must be completed.

--

14. Authorised Officer's Statement:			
1. I, [insert name], hereby authorise [reject the application for] the directed surveillance operation as detailed above. This written authorisation will cease to have effect if not actioned within a period of 3 months.			
2. The Applicant will review this authorisation on _____ to see whether the authorisation should be renewed or cancelled.			
3. The Applicant will take appropriate action on _____ to seek the renewal or cancellation of this authorisation from the Authorised Officer.			
Name (Print):		Job Title:	
Signature:		Date:	

Date of first review:	
Date of subsequent reviews of this authorisation:	

15. Confidential Information Authorisation:			
Name (Print):	.....	Job Title:	.....
Signature:	.....	Date:	.....
From	Time: _____	Date:	_____

16. Urgent Authorisation: Details of why application is urgent:			
Name (Print):	.....	Job Title:	.....
Signature:	.....	Date:	.....

NB: A copy of this Form (once it has been authorised or rejected) must be sent to the Legal and Democratic Services Manager within one week of the authorisation or rejection for the Council's Corporate Register



STRICTLY PRIVATE AND CONFIDENTIAL

**FORM A2
APPLICATION FOR RENEWAL OF A DIRECTED SURVEILLANCE
AUTHORISATION
(Please attach the original authorisation)**

**PART II OF THE REGULATION OF INVESTIGATORY
POWERS ACT 2000 (RIPA)**

Guidance Note:

1. After [] only Authorised Officers who have been certified by the Legal and Democratic Services Manager will be allowed to sign RIPA forms.
2. Applicants and Authorised Officers must comply, in full, with the Act and the Council's RIPA Corporate Policy & Procedures Document and any other guidance issued by the Legal and Democratic Services Manager. If in doubt, contact Tonya Meers, Legal and Democratic Services Manager, The Deane House, Belvedere Road, Taunton, TA1 1HE. Tel: 01823 356406
3. Copies of completed forms must be sent (once authorised or rejected) to the Legal and Democratic Services Manager within one week of the authorisation, rejection, renewal or cancellation for the Corporate Register.
4. All boxes in this form must be completed. 'Not applicable', N/A, or lines must be put through irrelevant boxes.

SECTION 1 (To be completed by the Applicant)

Subject of surveillance		Unique Identification Number (UNI):	/ /
			Year / Group / Number

Name of Applicant:		Unit/Division:	
Full Address:			
Contact Details:			
Investigation/Operation Name (if applicable):			
Renewal relates to Form A1:	(Department)	(Year)	(Number)

Details of renewal:

1. Renewal numbers and dates of any current and previous renewals:	
Renewal Number	Date:

2. Detail any significant changes to the information provided in the original authorisation, as it applies at the time of the renewal:

3. Detail the reasons why it is necessary to continue with the directed surveillance:

4. Detail why the directed surveillance is still proportionate to what it seeks to achieve:

5. Indicate the content and value to the investigation or operation of the information so far obtained by the directed surveillance:

--

6. Give details of the results of the regular reviews of the investigation or operation:

--

7. Applicant's Details:

Name (print): _____ Tel No: _____

Job Title: _____

Date: _____

Signature: _____

SECTION 2 (To be completed by the Authorised Officer)

8. Authorised Officer's Comments - This box must be completed

--

9. Authorised Officer's Statement:	
I, [insert name], hereby authorise / reject the application for]the renewal of the directed surveillance operation as detailed above. The renewal of this authorisation will last for 3 months unless renewed in writing.	
This authorisation will be reviewed frequently to assess the need for the authorisation to continue.	
Name (Print): Job Title:	
Signature: Date:	
Renewal Time:	Date:
From:	

Date of first review:	
Date of subsequent reviews of this authorisation:	

NB: A copy of this Form (once it has been authorised or rejected) must be sent to the Legal and Democratic Services Manager within one week of the authorisation or rejection for the Council's Corporate Register

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REVIEW OF A DIRECTED SURVEILLANCE AUTHORISATION

PART II OF THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

Guidance Note:

1. After [] only Authorised Officers who have been certified by the Legal and Democratic Services Manager will be allowed to sign RIPA forms.
2. Applicants and Authorised Officers must comply, in full, with the Act and the Council's RIPA Corporate Policy & Procedures Document and any other guidance issued by the Legal and Democratic Services Manager. If in doubt, contact Tonya Meers, Legal and Democratic Services Manager, The Deane House, Belvedere Road, Taunton, TA1 1HE. Tel: 01823 356406
3. Copies of completed forms must be sent (once authorised or rejected) to the Legal and Democratic Services Manager within one week of the authorisation, rejection, renewal or cancellation for the Corporate Register.
4. All boxes in this form must be completed. 'Not applicable', N/A or lines must be put through irrelevant boxes.

SECTION 1 (To be completed by the Applicant)

Subject of surveillance		Unique Identification Number (UNI):	/ /		
			Year / Group / Number		

Name of Applicant:		Unit/Division:			
--------------------	--	----------------	--	--	--

Full Address:					
---------------	--	--	--	--	--

Contact Details:					
------------------	--	--	--	--	--

Operation Name:		Form A1 UIN	(Dept)	(Year)	(Number)

Date of authorisation or last renewal:		Expiry date of authorisation or last renewal:			
		Form A2 UIN			

Details of renewal:

1. Renewal numbers and dates of any current and previous renewals:	
Renewal Number	Date:

2. Summary of the investigation/operation to date, including what private information has been obtained and the value of the information so far obtained:

--

3. Detail the reasons why it is necessary to continue with the directed surveillance:

--

4. Explain how the proposed activity is still proportionate to what it seeks to achieve:

--

5. Detail any incidents of collateral intrusion and the likelihood of any further incidents of collateral intrusions occurring:

--

6. Give details of any confidential information acquired or accessed and the likelihood of acquiring confidential information:

--

7. Applicant's Details:	
Name (print): _____	Tel No: _____
Job Title: _____	Date: _____
Signature: _____	

SECTION 2 (To be completed by the Authorised Officer)

8. Authorised Officer's Comments, including whether or not the directed surveillance should continue:

9. Authorised Officer's Statement:
I, [insert name], hereby agree that the directed surveillance investigation/operation as detailed above should [continue until its next review/renewal] [be cancelled immediately]

Name (Print):	Job Title:
Signature:	Date:

Renewal From: _____	Time: _____	Date: _____
---------------------	-------------	-------------

10. Date of next review	
--------------------------------	--

NB: A copy of this Form (once it has been authorised or rejected) must be sent to the Legal and Democratic Services Manager within one week of the authorisation or rejection for the Council's Corporate Register



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FORM A4

CANCELLATION OF A DIRECTED SURVEILLANCE AUTHORISATION

PART II OF THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

Guidance Note:

1. After [] only Authorised Officers who have been certified by the Legal and Democratic Services Manager will be allowed to sign RIPA forms.
2. Applicants and Authorised Officers must comply, in full, with the Act and the Council's RIPA Corporate Policy & Procedures Document and any other guidance issued by the Legal and Democratic Services Manager. If in doubt, contact Tonya Meers, Legal and Democratic Services Manager, The Deane House, Belvedere Road, Taunton, TA1 1HE. Tel: 01823 356406
3. Copies of completed forms must be sent (once authorised or rejected) to the Legal and Democratic Services Manager within 1 week of the authorisation, rejection, renewal or cancellation for the Corporate Register.
4. All boxes in this form must be completed. 'Not applicable', N/A or lines must be put through irrelevant boxes.

SECTION 1 (To be completed by the Applicant)

Subject of surveillance		Unique Identification Number (UNI):	/ /
			Year / Group / Number

Name of Applicant:		Unit/Division:	
Full Address:			
Contact Details:			
Investigation/Operation Name: (if applicable)			
Form A1 UIN:		Form A2 UIN:	Form A3 UIN:

Details of cancellation

1. Explain the reason(s) for the cancellation of the authorisation:

2. Explain the value of surveillance in the operation:

SECTION 2 (To be completed by the Authorised Officer)

3. Authorised Officer's Statement:	
I, [insert name], hereby authorise the cancellation of the directed surveillance investigation/operation as detailed above.	
Name (Print): Job Title:	
Signature: Date:	

4. Time and Date of when the Authorised Officer instructed the surveillance to cease:			
Date:		Time:	

5. Authorisation cancelled:	Date:	Time:
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NB: A copy of this Form (once it has been authorised or rejected) must be sent to the Legal and Democratic Services Manager within one week of the authorisation or rejection for the Council's Corporate Register

APPENDIX 5

RIPA 'B' FORMS: COVERT HUMAN INTELLIGENCE SOURCE (CHIS)

Additional Notes on CHIS (This is an extract from the Home Office Code of Practice on CHIS)

MANAGEMENT OF SOURCES

Tasking

1. Tasking is the assignment given to the source by the persons defined at sections 29(5)(a) and (b) of the 2000 Act, asking him to obtain information, to provide access to information or to otherwise act, incidentally, for the benefit of the relevant public authority. Authorisation for the use or conduct of a source is required prior to any tasking where such tasking requires the source to establish or maintain a personal or other relationship for a covert purpose.
2. The person referred to in section 29(5)(a) of the 2000 Act will have day to day responsibility for:
 - dealing with the source on behalf of the authority concerned;
 - directing the day to day activities of the source;
 - recording the information supplied by the source; and
 - monitoring the source's security and welfare;
3. The person referred to in section 29(5)(b) of the 2000 Act will be responsible for the general oversight of the use of the source.
4. In some instances, the tasking given to a person will not require the source to establish a personal or other relationship for a covert purpose. For example a source may be tasked with finding out purely factual information about the layout of commercial premises. Alternatively, a Trading Standards Officer may be involved in the test purchase of items which have been labelled misleadingly or are unfit for consumption. In such cases, it is for the relevant public authority to determine where, and in what circumstances, such activity may require authorisation.
5. It is not the intention that authorisations be drawn so narrowly that a separate authorisation is required each time the source is tasked. Rather, an authorisation might cover, in broad terms, the nature of the source's task. If this changes, then a new authorisation may need to be sought.

6. It is difficult to predict exactly what might occur each time a meeting with a source takes place, or the source meets the subject of an investigation. There may be occasions when unforeseen action or undertakings occur. When this happens, the occurrence must be recorded as soon as practicable after the event and, if the existing authorisation is insufficient it should either be updated and re-authorised (for minor amendments only) or it should be cancelled and a new authorisation should be obtained before any further such action is carried out.
7. Similarly where it is intended to task a source in a new way or significantly greater way than previously identified, the persons defined at section 29(5)(a) or (b) of the 2000 Act must refer the proposed tasking to the authorising officer, who should consider whether a separate authorisation is required. This should be done in advance of any tasking and the details of such referrals must be recorded.

Management responsibility

8. Public authorities should ensure that arrangements are in place for the proper oversight and management of sources, including appointing individual officers as defined in section 29(5)(a) and (b) of the 2000 Act for each source.
9. The person responsible for the day-to-day contact between the public authority and the source will usually be of a rank or position below that of the authorising officer.
10. In cases where the authorisation is for the use or conduct of a source whose activities benefit more than a single public authority, responsibilities for the management and oversight of that source may be taken up by one authority or can be split between the authorities.

Security and welfare

11. Any public authority deploying a source should take into account the safety and welfare of that source, when carrying out actions in relation to an authorisation or tasking, and to foreseeable consequences to others of that tasking. Before authorising the use or conduct of a source, the authorising officer should ensure that a risk assessment is carried out to determine the risk to the source of any tasking and the likely consequences should the role of the source become known. The ongoing security and welfare of the source, after the cancellation of the authorisation, should also be considered at the outset.
12. The person defined at section 29(5)(a) of the 2000 Act is responsible for bringing to the attention of the person defined at section 29(5)(b) of the 2000 Act any concerns about the personal circumstances of the source, insofar as they might affect:
 - the validity of the risk assessment
 - the conduct of the source, and
 - the safety and welfare of the source.

13. Where deemed appropriate, concerns about such matters must be considered by the authorising officer, and a decision taken on whether or not to allow the authorisation to continue.

Form B1 : Application for authorisation of the Use or Conduct of a Covert Human Intelligence Source (CHIS).

Form B2 : Application for Renewal of Form B 1.

Form B3 : Review of Form B 1.

Form B4 : Cancellation of Form B1



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FORM B1

APPLICATION FOR AUTHORISATION OF THE USE OR CONDUCT OF A COVERT HUMAN INTELLIGENCE SOURCE (CHIS)

PART II OF THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

Guidance Note:

1. After [] only Authorised Officers who have been certified by the Legal and Democratic Services Manager will be allowed to sign RIPA forms.
2. Applicants and Authorised Officers must comply, in full, with the Act and the Council's RIPA Corporate Policy & Procedures Document and any other guidance issued by the Legal and Democratic Services Manager. If in doubt, contact Tonya Meers, Legal and Democratic Services Manager, The Deane House, Belvedere Road, Taunton, TA1 1HE. Tel: 01823 356406
3. Copies of completed forms must be sent (once authorised or rejected) to the Legal and Democratic Services Manager within one week of the authorisation, rejection, renewal or cancellation for the Corporate Register.
4. All boxes in this form must be completed. NOT APPLICABLE, N/A or lines must be put through irrelevant boxes.

SECTION 1 (to be completed by the Applicant)

Subject of surveillance		Unique Identification Number (UNI):	/ /
			Year / Group / Number

Name of Applicant:		Unit/Division:	
Full Address:			
Contact Details:			
Investigation/Operation Name (if applicable):			

Details of application:

1. Give Job Title of Authorised Officer:

2. Identify which grounds the action is necessary under Section 29(3) of RIPA: (delete as necessary)
<ul style="list-style-type: none"> • In the interests of national security; • For the purpose of preventing or detecting crime or of preventing further 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

3. Explain why the use or conduct of a covert human intelligence source (CHIS) is necessary in this particular case:

4. Explain why the authorised use or conduct of a source is proportionate to what it seeks to achieve:

5. Details of the purpose for which the source will be tasked or deployed:

6. Where a specific investigation or operation is involved, details of that investigation or operation:

7. Nature of what the source will be tasked to do:

8. Details of the risk assessment on the security and welfare of using the source:

9. Collateral Intrusion: Indicate any potential for collateral intrusion on persons other than those targeted: include a plan to minimize collateral instruction.

10. Confidential Information: Indicate the likelihood of acquiring any confidential information.

11. Anticipated Start:	Date:	Time:
------------------------	-------	-------

12. Applicant's Details:
Name _____ Tel No: _____ (print): _____
Job Title: _____ Date: _____
Signature: _____

SECTION 2 (To be completed by the Authorised Officer)

13. Authorised Officer's comments: This box must be completed.

14. Authorised Officer's Statement:			
1. I, [insert name], hereby authorise [or reject the application for] the use/conduct of the source as detailed above. This written authorisation will cease to have effect if not actioned within a period of 3 months.			
2. The Applicant will review this authorisation on _____ to see whether the authorisation should be renewed or cancelled.			
3. The Applicant will take appropriate action on _____ to seek the renewal or cancellation of this authorisation from the Authorised Officer.			
Name (Print):		Job Title:	
Signature:		Date:	

15. Date of first review:	
16. Date of subsequent reviews of this authorisation:	

17. Confidential Information Authorisation:			
Name (Print):		Job Title:	
Signature:		Date:	
From	Time: _____	Date: _____	

18. Urgent Authorisation: Details of why application is urgent:	
Name (Print):	Job Title:
Signature:	Date:

19. Authorised Officer's statement: (This must include why the authorising officer or the person entitled to act in their absence considered the case urgent)	
20 Please give the reasons why the person entitled to act in urgent cases considered that it was not reasonably practicable for the authorisation to be considered by a person otherwise entitled to act:	
Name (Print):	Job Title:
Signature:	Date:

NB: A copy of this Form (once it has been authorised or rejected) must be sent to the Legal and Democratic Services Manager within one week of the authorisation or rejection for the Council's Corporate Register



STRICTLY PRIVATE AND CONFIDENTIAL

FORM B2

APPLICATION FOR RENEWAL OF A COVERT HUMAN INTELLIGENCE SOURCE (CHIS) AUTHORISATION (Please attach the original authorisation)

PART II OF THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

Guidance Note:

1. After [] only Authorised Officers who have been certified by the Legal and Democratic Services Manager will be allowed to sign RIPA forms.
2. Applicants and Authorised Officers must comply, in full, with the Act and the Council's RIPA Corporate Policy & Procedures Document and any other guidance issued by Legal and Democratic Services Manager. If in doubt, contact Tonya Meers, Legal and Democratic Services Manager, The Deane House, Belvedere Road, Taunton, TA1 1HE. Tel: 01823 356406
3. Copies of completed forms must be sent (once authorised or rejected) to the Legal and Democratic Services Manager within one week of the authorisation, rejection, renewal or cancellation for the Corporate Register.
4. All boxes in this form must be completed. 'Not applicable', N/A or lines must be put through irrelevant boxes.

SECTION 1 (To be completed by the Applicant)

Subject of surveillance		Unique Identification Number (UNI):	/ /
			Year / Group / Number

Name of Applicant:		Unit/Division:	
Full Address:			
Contact Details:			
Investigation/Operation Name (if applicable):			
Renewal relates to Form B1:	(Department)	(Year)	(Number)

Details of renewal:

1. Renewal numbers and dates of any current and previous renewals:	
Renewal Number	Date:

2. Detail any significant changes to the information in the previous authorisation:

--

3. Detail any significant changes to the information as listed in the original authorisation as it applies at the time of the renewal:

--

4. Detail why it is necessary to continue with the authorisation, including details of any tasking given to the source:

--

5. Detail why the use or conduct of the source is still proportionate to what it seeks to achieve:

--

6. Detail the use made of the source in the period since the grant of authorisation or as the case may be, latest renewal of the authorisation:

7. List the tasks given to the source during that period and the information obtained from the conduct or use of the source:

8. Detail the results of regular reviews of the use of the source:

9. Give details of the review of the risk assessment on the security and welfare of using the source:

10. Applicant's Details:	
Name (print): _____	Tel No: _____
Job Title: _____	Date: _____
Signature: _____	

SECTION 2 (To be completed by the Authorised Officer)

11. Authorised Officer's Comments: This box must be completed

12. Authorised Officer's Statement:
I, [insert name], hereby authorise [or reject the application for] the renewal of the conduct/use of the source as detailed above. The renewal of this authorisation will last for 12 months further renewed in writing.
This authorisation will be reviewed frequently to assess the need for the authorisation to continue.
Name (Print): Job Title:
Signature: Date:
Renewal Time: Date: From:

Date of first review:	
Date of subsequent reviews of this authorisation:	

NB: A copy of this Form (once it has been authorised or rejected) must be sent to the Legal and Democratic Services Manager within one week of the authorisation or rejection for the Council's Corporate Register



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FORM B3

REVIEW OF A COVERT HUMAN INTELLIGENCE SOURCE (CHIS) AUTHORISATION

PART II OF THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

Guidance Note:

1. After [] only Authorised Officers who have been certified by the Legal and Democratic Services Manager will be allowed to sign RIPA forms.
2. Applicants and Authorised Officers must comply, in full, with the Act and the Council's RIPA Corporate Policy & Procedures Document and any other guidance issued by Legal and Democratic Services Manager. If in doubt, contact Tonya Meers, Legal and Democratic Services Manager, The Deane House, Belvedere Road, Taunton, TA1 1HE. Tel: 01823 356406
3. Copies of completed forms must be sent (once authorised or rejected) to the Legal and Democratic Services Manager within one week of the authorisation, rejection, renewal or cancellation for the Corporate Register.
4. All boxes in this form must be completed. 'Not applicable', N/A or lines must be put through irrelevant boxes.

SECTION 1 (To be completed by the Applicant)

Subject of surveillance		Unique Identification Number (UNI):	/	/
			Year / Group / Number	

Name of Applicant:		Unit/Division:			
Full Address:					
Contact Details:					
Operation Name:		Form B1 UIN			
Date of authorisation or last renewal:		Expiry date of authorisation or last renewal:			
		Form B2 UIN			

Details of renewal:

1. Review number and dates of any current and previous renewals:	
Renewal Number	Date:

2. Summary of the investigation/operation to date, including what information has been obtained and the value of the information so far obtained:

--

3. Detail the reasons why it is NECESSARY to continue with using a Covert Human Intelligence Source.

--

4. Explain how the proposed activity is still PROPORTIONATE to what it seeks to achieve:

--

5. Detail any incidents of collateral intrusion and the likelihood of any further incidents of collateral intrusions occurring:

--

6. Give details of any confidential information acquired or accessed and the likelihood of acquiring confidential information:

--

7. Give details of the review of the risk assessment on the security and welfare of using the source:

8. Applicant's Details:	
Name (print): _____	Tel No: _____
Job Title: _____	Date: _____
Signature: _____	

SECTION 2 (To be completed by the Authorised Officer)

9. Authorised Officer's Comments, including whether or not the use or conduct of the source should continue:

10. Authorised Officer's Statement:	
I, [insert name], hereby agree that the use/conduct of the source as detailed above should [continue until its next review/renewal] [be cancelled immediately].	
Name (Print):	Job Title:
Signature:	Date:
Date of next review	

NB: A copy of this Form (once it has been authorised or rejected) must be sent to the Legal and Democratic Services Manager within one week of the authorisation or rejection for the Council's Corporate Register



STRICTLY PRIVATE AND CONFIDENTIAL

FORM B4

CANCELLATION OF AN AUTHORISATION FOR THE USE OR CONDUCT OF A COVERT HUMAN INTELLIGENCE SOURCE

PART II OF THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

Guidance Note:

1. After [] only Authorised Officers who have been certified by Legal and Democratic Services Manager will be allowed to sign RIPA forms.
2. Applicants and Authorised Officers must comply, in full, with the Act and the Council's RIPA Corporate Policy & Procedures Document and any other guidance issued by the Legal and Democratic Services Manager. If in doubt, contact Tonya Meers, Legal and Democratic Services Manager, The Deane House, Belvedere Road, Taunton, TA1 1HE. Tel: 01823 356406
3. Copies of completed forms must be sent (once authorised or rejected) to the Legal and Democratic Services Manager within one week of the authorisation, rejection, renewal or cancellation for the Corporate Register.
4. All boxes in this form must be completed. 'Not applicable', N/A or lines must be put through irrelevant boxes.

SECTION 1 (To be completed by the Applicant)

Subject of surveillance		Unique Identification Number (UNI):	/ /
			Year / Group / Number

Name of Applicant:		Unit/Division:	
Full Address:			
Contact Details:			
Investigation/Operation Name: (if applicable)			
Form B1 UIN:		Form B2 UIN:	Form B3 UIN:

Details of cancellation:

1. Explain the reason(s) for the cancellation of the authorisation:

2. Explain the value of the source in the operation:

SECTION 2 (To be completed by the Authorised Officer)

3. Authorised Officer's Statement:
I, [insert name], hereby authorise the cancellation of the use/conduct of the source as detailed above.
Name (Print): Job Title:
Signature: Date:

4. Time and Date of when the Authorised Officer instructed the surveillance to cease:
Date: <input type="text"/> Time: <input type="text"/>

5. Authorisation cancelled:	Date: <input type="text"/>	Time: <input type="text"/>
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NB: A copy of this Form (once it has been authorised or rejected) must be sent to the Legal and Democratic Services Manager within one week of the authorisation or rejection for the Council's Corporate Register

APPENDIX 6

EXAMPLES OF COVERT SURVEILLANCE

The following are examples of covert surveillance operations that may be conducted by Council staff, with indications as to whether RIPA authorisation may be needed.

If there are any special circumstances to an operation which, in general terms, matches one of the examples below, then the need for authorisation should be re-assessed by the Case Officer.

Example 1 -

Use of fixed CCTV cameras to record fly-tipping in the area around Recycling Centres in Council Car Parks.

Points to consider:

- a) The cameras are in plain view and are therefore not covert, even if they are being used as part of a defined and pre-planned Operation.
- b) By definition, these are well-used public areas and any expectation as to privacy would be minimal.
- c) Collateral intrusion and the opportunity to obtain private information is unlikely.

Recommendation:

Unless there are additional and unusual features to the Operation, RIPA Authorisation would not be required.

Example 2 –

Use of temporary surveillance cameras to record flytipping in a public area such as a layby or a wooded area close to a road.

Points to consider:

- a) Cameras and recording equipment would be deliberately concealed from view.
- b) Although the area is accessible to the public, it is likely to be less frequented than, for example, a Council car park. There would therefore be a heightened expectation as to privacy.
- c) The fact that flytipping is an illegal act does not reduce the perpetrators' rights to be protected.

- d) Collateral intrusion and the opportunity to obtain private information, are more likely than in Example 1, above.

Recommendation:

On balance, RIPA authorisation for Directed Surveillance should be obtained.

This could be avoided by the publication in the local press beforehand of an article explaining that a given area would be placed under surveillance for a given period of time. However, this would largely negate the usefulness of the Operation.

Example 3 –

Use of noise recording equipment, in a complainant's property, with the tape recorder being operated by the complainant when noise events occur.

Points to consider:

- a) The equipment is concealed from the occupants of the premises under surveillance (the Object). It is therefore a covert operation, unless the occupants of the premises under audio surveillance had been warned, in writing, that surveillance may be carried out within a given period of time.
- b) The premises under surveillance are not public in any sense, and the expectation as to privacy would be very high.
- c) Noise events coming from the premises under surveillance and affecting the complainant's premises might be regarded as no longer being private, as boundaries into other areas had been crossed by the time the noise was recorded.

However, there may well be instances (for example between poorly insulated flats or rooms within bedsits) where this consideration does not apply.

- d) The possibility of collateral intrusion and the opportunity to obtain private information, are likely.
- e) As the tape recording is operated by the complainant, it is possible (s)he is acting as a Covert Human Intelligence Source (CHIS).

Recommendation:

- a) RIPA authorisation for Directed Surveillance should be sought by the Case Officer when the premises under surveillance are residential, unless:
 - i) The occupants of the premises under surveillance had been warned, in writing and in advance, that audio surveillance may be used, and/or

- ii) There is such separation between the complainant's property and the property under surveillance that it could not be claimed that noise events passing from one to the other were of a private nature.
- b) RIPA authorisation of the complainant as a CHIS should be considered if there was any form of relationship between the complainant and the occupants of the premises under surveillance. A relationship may include, for example, long-term neighbours who regularly speak to each other and who may, generally, be on good terms.

However, the need for Authorisation would only seem to apply if it is the clear intention to use this relationship, covertly, for the express purpose of obtaining confidential information. Clearly, in practically every case, this would not be the intention.

However, if the complainant may be able to influence the onset of a noise event from the object premises by using their relationship with the object, then the use of monitoring equipment, with or without RIPA Authorisation(s) would be inappropriate. To give an extreme example, the complainant may say to the object "...we are going out tonight, so you can play your music as loud as you like!".

Note: If the complainant, including any member of their household who may operate noise recording equipment, is judged to be acting as a CHIS, then it is immaterial whether or not the object has been informed of the likelihood of audio surveillance. Authorisation as a CHIS would still be required.

As part of the CHIS Authorisation, careful consideration must be given to the conditions to be imposed to prevent misuse of the relationship between complainant and object.

Example 4_–

Covert observation of a Night Club entrance to determine the number of patrons in the premises.

Points to consider:

- a) No image or sound recording equipment is in use, so the opportunities for either collateral intrusion or of obtaining private information do not apply.
- b) No individual person is under surveillance.
- c) The queue that forms outside a Night Club is, by its nature, in a public place and is likely to be one that is well used.

Expectations as to privacy by any person outside the Club premises would therefore be very low.

Recommendation:

Unless there are additional and unusual features to the Operation, RIPA Authorisation would not be required.

Example 5 –

Asking a disabled person to book a taxi and complete a journey to determine whether the taxi driver was discriminatory and to report back to Licensing for possible enforcement action.

Points to consider:

- a) The purpose of the journey would be to gather information.
- b) It would be pre-planned.
- c) It would be designed to be covert.
- d) The nature and duration of the exercise make it likely that that a relationship, in legal terms, would be formed.
- e) The expectation as to privacy would be high.
- f) It is likely that, whether planned or not, confidential information would be obtained.

Recommendation:

- a) It is considered that an Authorisation for Directed Surveillance would be required.
- b) It is also considered that the disabled person would qualify as a CHIS, so that additional Authorisation would be required specifically for that aspect.
- c) If it were intended to record conversation between the parties, this would constitute Intrusive Surveillance. Authorisation would not be possible and the surveillance itself would be unlawful.

END