

Doncaster MBC, Policy Statement - Regulation of Investigatory Powers Act 2000

Policy Background

The Council and its business operations are often affected by legislation.

The Regulation of Investigatory Powers Act 2000 (R.I.P.A) provide a legal framework for covert surveillance activities by public authorities, including local authorities, and it also provides an independent inspection regime to monitor those activities (Office of the Surveillance Commissioner).

This legislation impacts upon the Council in that it prescribes a legal framework which must be followed by the Council, to ensure that the use of surveillance is subject to an authorisation, review and cancellation procedure.

Practical Implications

Surveillance is a requisite part of the delivery of some of the Council's functions e.g. trading standards and public health officers, in that it is a tool to prevent and detect crime. Surveillance does from time to time also involve the use of covert human intelligence sources (suppliers of information), whose activities are also covered by the Act.

This policy statement endorses the practices prescribed in the R.I.P.A. 2000 Act, and the related Home Office Code of Practice. Through this the Council will ensure that:-

- it will not undertake any activity defined within the Regulation of Investigatory Powers Act 2000 without prior authorisation;
- such authorisation will only be given by trained senior officers who are empowered to grant such consents;
- authorising officers will not permit the use of covert surveillance techniques or covert human intelligence sources unless the authorisation can be shown to be necessary; is to prevent or detect a crime, Directed surveillance by a Local Authority shall only be carried out where necessary for the purpose of preventing or detecting crime, where the criminal offence sought to be prevented or detected is punishable by a maximum term of at least 6 months of imprisonment or are offences involving sale of tobacco and alcohol to underage children
- authorising officers will only authorise covert surveillance where it is believed to be proportionate to what it is seeking to achieve;

- authorising officers will only approve the use of covert surveillance or covert human intelligence sources where they believe that the information being sought cannot be achieved through other means;
- authorising officers will only approve the use of covert surveillance or covert human intelligence sources where they are satisfied that efforts will be made to reduce the impact, of the surveillance or information gathering, on other people who are not the subject of the operation;
- authorising officers will, ensure that authorisation is sought and made in writing, and contains details of; the action to be authorised, the identity (where known) of the subject of the investigation, the grounds for making application for undertaking the use of covert surveillance or information gathering, the information being sought, and the potential intrusion resulting from these actions, into the activities of others.
- All authorisations must be authorised by a Magistrate

Publicising of Policy

This policy will be brought to the attention of all the Council's employees and its Members, and will be made available to the public at the Council's key public access points and on reasonable request.

Complaints relating to this policy may be made through the Council's normal corporate Complaints Procedure or directly to the Investigatory Powers Tribunal.

This Policy & Human Rights

By their nature, covert surveillance and covert intelligence gathering may constitute an interference with a person's right to privacy and may give rise to legal challenge as a potential breach of Article 8 (the right to respect for private and family life) of the European Convention on Human Rights and the Human Rights Act 1998. Compliance with this policy is intended to balance the rights of the individual with those of the public interest. It is for this reason that the Council stresses the importance of the need for due and proper compliance with this policy statement and the requirements of the Regulation of Investigatory Powers Act 2000.

Explanation of Terms in this Policy Statement

The following items are provided by way of assisting in the understanding of this policy.

Covert Surveillance	- includes the monitoring, observing or listening to persons, their movements, their conversations or other activities or communication, in a covert (without their knowledge) manner. It also includes the recording of anything monitored, observed or listened to in the course of surveillance. This includes surveillance by or with the assistance of a surveillance device.
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Covert Human Intelligence Source

-is a person who covertly uses a relationship (personal or other) to obtain information or provide access to any information or another person, or covertly discloses information obtained either by the use of such a relationship or as a consequence of the existence of such a relationship. More simplistically, if person A requests that person B provide, in a covert manner, information on person C, without the knowledge of Person C, then Person B acts as a covert human intelligence source.

Procedures Putting this Policy Into Practice

The Council has established procedures for the delivery of this policy into practice and thereby compliance with the Regulation of Investigatory Powers Act 2000. There is a requirement for all those involved in the undertaking of or authorisation of, actions covered under this policy, to comply with those procedures.

External Inspection

It is anticipated that the Council will be subject to inspection by the Office of Surveillance Commissioners from time to time in order to assess compliance with the Act and guidance issued by the Home Office.