

# Audit and Governance Committee



Date of meeting:	28 March 2022
Title of Report:	Surveillance, Covert Activities, and the Regulation of Investigatory Powers Act 2000 (RIPA)
Lead Strategic Director:	Andy Ralphs (Strategic Director of Customer and Corporate Services)
Author:	John Finch, Information Governance Manager
Contact Email:	John.Finch@plymouth.gov.uk
Your Reference:	RIPA Annual Report 2022
Key Decision:	No
Confidentiality:	Part I - Official

## Purpose of Report

Surveillance is a tool that may be required for the Council to fulfil its obligations to investigate crime, prevent disorder, recover debt, protect the public and establish the facts about situations for which the Council has responsibility.

Staff may consider that it is appropriate to undertake covert activities that result in the subject of enquires being unaware that their actions are being monitored, or enquires are being undertaken without their knowledge. However, covert activities compromise an individual's 'right to privacy', so the use of a covert activity must be lawful, necessary and proportionate in order to comply with the Human Rights Act. Examples of the Council's use of covert surveillance are listed in Appendix A.

This report informs Members about the steps being taken to ensure that the Council is compliant in respect of covert activities.

Audit Committee are requested to accept the Surveillance and Covert Activities Policy.

## Recommendations and Reasons

Council are required to be informed about the use of covert surveillance by staff when conducting investigations and to agree a policy.

Members are requested to acknowledge that covert activities can be a necessary and proportionate response for achieving the Council's objectives through approval of the Surveillance and Covert Activities Policy; which allows covert activities to be deployed where necessary and proportionate, under the control of a good practice process based on the Regulation of Investigatory Powers Act requirements.

The report informs members about covert surveillance that has taken place, changes to legislation since the last report and the steps being taken to ensure that the Council is compliant in respect of covert activities.

## Alternative options considered and rejected

The alternative option is for Members to limit the option for Officers to use surveillance as an investigatory tool by:

- a) deciding that Officers will not undertake surveillance or covert activities on behalf of the Council, or
- b) Officers may only use covert activities when a serious crime is being investigated.

This option is rejected as the oversight Commissioners have not found Officers to be irresponsible, the Council has only initiated necessary investigations and has always been proportionate in its use of covert activities.

Thus Officers have been found to have the expertise to deploy the available powers appropriately and to now limit the use of surveillance would have a detrimental impact on Officers ability to undertake investigations in order to fulfil responsibilities of the Council.

### **Relevance to the Corporate Plan and/or the Plymouth Plan**

This report is relevant to the Corporate Plan Values of being democratic, responsible and fair. Undertaking covert activities contributes to the corporate vision by reducing crime, helping to ensure residents feel safe, are happy and healthy and helping to ensure economic growth is not jeopardised through unfair or illegal activity.

### **Implications for the Medium Term Financial Plan and Resource Implications:**

There are no significant implications for the medium term financial plan as the undertaking of surveillance and covert activities is a departmental casework related process. There is not a specific budget cost code and all costs are subsumed within service team budgets. Thus any equipment that is required is obtained through current budgets.

However in order to ensure compliance with the requirements of the HRA and other relevant legislation; sufficient trained managers and staff are required to be available and the resourcing of specialist staff role profiles must be incorporated into Directorate action plans.

### **Carbon Footprint (Environmental) Implications:**

No implications.

### **Other Implications: e.g. Health and Safety, Risk Management, Child Poverty:**

*\* When considering these proposals members have a responsibility to ensure they give due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not.*

- Child Poverty - none.
- Community Safety - the purpose of the surveillance tool is to promote community safety, prevent crime and disorder, undertake fraud investigation and provide environmental protection.
- Health and Safety - in particular the use of CCTV can promote safety, but officers undertaking surveillance are potentially at risk.
- Risk Management - there is the possibility of loss of reputation and monetary penalties for the Council, through surveillance breaching privacy and that evidence obtained for an investigation will not be accepted. However, complying with RIPA prevents the Council breaching its obligations under the Human Rights Act and associated legislation; as well as enabling the product of surveillance to be used in accordance with the requirements of legislation and good practice.

### **Appendices**

*\*Add rows as required to box below*

Ref.	Title of Appendix	Exemption Paragraph Number (if applicable) <i>If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1 of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.</i>						
		1	2	3	4	5	6	7
A	RIPA Policy							

**Background papers:**

\*Add rows as required to box below

Please list all unpublished, background papers relevant to the decision in the table below. Background papers are unpublished works, relied on to a material extent in preparing the report, which disclose facts or matters on which the report or an important part of the work is based.

Title of any background paper(s)	Exemption Paragraph Number (if applicable) <i>If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1 of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.</i>						
	1	2	3	4	5	6	7
Surveillance & Covert Activities Policy							

**Sign off:**

Fin	djn.21 .22.31 9	Leg	402/ NJ	Mon Off		HR		Asset s		Strat Proc	
Originating Senior Leadership Team member: Andy Ralph (Strategic Director for Customer and Corporate Service)											
Please confirm the Strategic Director(s) has agreed the report? Yes											
Date agreed: 22/03/2022											