



RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

28TH FEBRUARY 2022

**REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) and
INVESTIGATORY POWERS ACT 2016 (IPA) -
USE OF INVESTIGATORY POWERS DURING 2021 BY
RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**REPORT OF THE DIRECTOR OF LEGAL SERVICES AND DIRECTOR OF PUBLIC
HEALTH, PROTECTION & COMMUNITY SERVICES IN DISCUSSION WITH THE
DEPUTY LEADER, CLLR WEBBER**

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1. PURPOSE

To enable Members to review for the period 1st January to 31st December 2021:

- 1.1 The Council's use of the Regulation of Investigatory Powers Act 2000 (as amended) (RIPA); and
- 1.2 The Council's use of the Acquisition of Communications Data under the Investigatory Powers Act 2016 (IPA).

2. RECOMMENDATIONS

It is recommended that Cabinet:

- 2.1 Note the contents of this report; and
- 2.2 Acknowledge that investigatory powers in respect of covert surveillance and acquisition of communications data have been used in an appropriate manner that is consistent with the Council's RIPA and IPA policies during the period 1st January – 31st December 2021.

3. REASONS FOR RECOMMENDATIONS

- 3.1 To ensure Members are kept apprised of how RIPA has been used during the period 1st January – 31st December 2021 and that it has been used in an appropriate manner consistent with the Council's RIPA policies.

- 3.2 The Cabinet is responsible for providing oversight for effective and appropriate use of specific investigatory powers under the Council's Corporate RIPA and IPA Policies; and to ensure that the policies remain fit for purpose.

4. USE OF RIPA BY THE COUNCIL: 1ST JANUARY – 31ST DECEMBER 2021

Directed Surveillance and the use of Covert Human Intelligence Sources

New Authorisations

- 4.1 During the period 1st January – 31st December 2021 there were no authorisations in respect of directed surveillance. During the same period, there were no authorisations for the use of covert human intelligence sources.
- 4.2 Directed surveillance authorisations can be issued where it is necessary and proportionate in order to prevent or detect crime, or prevent disorder, where at least one of the offences is punishable by a maximum term of imprisonment of at least six months or more or relates to the underage sale of alcohol or tobacco/nicotine.
- 4.3 The post pandemic recovery period has meant that some departments did not return to 'business as usual' during 2021. Over the previous years, the majority of covert surveillance authorisations related to fly-tipping in the county borough. Whilst this activity has, unfortunately, not diminished, the service area has been controlling through overt surveillance, for which RIPA authorisation is not required.
- 4.4 It is likely that 2022 will see a return to pre-pandemic activity in relation to authorisations. It is important that policies remain current to utilise this investigative tool when it is needed.

Authorisations extant as at 1st January 2021

- 4.5 There were no directed surveillance authorisations that were carried forward from the previous calendar year (2020). Similarly, no authorisations in respect of a Covert Human Intelligence Source extant remain extant.

Authorisations extant as at 1st January 2022

- 4.6 No authorisations have been carried forward into 2022.

Human Rights Act Authorisations

- 4.7 At the commencement of an investigation, officers may need to carry out non-overt work which does not fall within the statutory requirements for RIPA, predominantly because the work is carried out in a manner that there is little likelihood of obtaining private information (collateral intrusion). The use of non-overt enforcement techniques are assessed to ensure that they are carried out

in compliance with the requirements of the Human Rights Act 1998 (HRA). Such assessments are recorded on a Human Rights Act consideration form, whereby the necessity, proportionality and purpose of the activity are addressed, precautions are introduced to minimise collateral intrusion and the use of the technique is approved by a senior manager.

4.8 If this preparatory investigative work carried indicates that an investigation needs to be carried out using RIPA-based techniques, officers will apply for RIPA authorisation.

4.9 During the period of this report, the HRA authorisations were:

<i>Anti-social behaviour monitoring</i>	0
<i>Underage sales test purchasing</i>	0
<i>Proxy sales monitoring</i>	0
<i>Internet site monitoring</i>	18
<i>Vehicle test purchasing</i>	0

4.10 Of note this period is the return to pre-pandemic numbers in respect of internet site monitoring. Such sites are predominantly monitored for investigations into sale of illegal products via social media.

4.11 Members may recall that the last reporting period included monitoring in relation to diversification of trading practices and a move away from high street premises to online presence during the pandemic period, commonly termed 'from bricks to clicks'. As this mode of trading increases, it is important to ensure that all service areas who may be moving to online monitoring are up to date with HRA processes, and when such monitoring may move into the realms of covert surveillance.

4.12 Whilst monitoring through social media may initially be considered intrusive, in many instances it can lead to a level of remote interaction between service areas and businesses that results in timelier resolution to enquiries; this has proved of benefit during the pandemic period.

4.13 Activity in other areas, such as underage sales test purchasing is still curtailed by risk assessment, due to the need to use volunteers who would have to remove their face masks to demonstrate their age to prospective sellers of restricted goods. Any complaint of proxy sales can be investigated through use of premises CCTV, however no such complaints have been received during this period.

4.14 A review of HRA authorisations showed that on no occasion did they result in an improper infringement of a person's human rights.

Communications Data

4.15 During the reporting period, three applications for communications data were submitted via the National Anti-Fraud Network (NAFN) in relation to telephone numbers used as part of fraudulent activity.

- 4.16 All three applications related to traders resident outside of Rhondda Cynon Taf who had defrauded local residents.
- 4.17 Two of the traders proved untraceable: one having given false information to register the mobile phone, and one using a pre-paid mobile which limits the amount of intelligence available. The third application resulted in a joint investigation and court case alongside Shared Regulatory Services, and custodial sentences of 2 years and 4 years, with compensation for consumers involved.

5. CONSULTATION/ INVOLVEMENT

This report has been prepared in consultation with the Council's Trading Standards & Registrar Service Manager who is responsible for operational oversight of RIPA matters.

6. EQUALITY AND DIVERSITY

There are no equality or diversity implications linked to this report.

7. FINANCIAL IMPLICATIONS

There are no financial implications linked to the contents of this report.

8. LINKS TO THE COUNCILS CORPORATE PLAN/ OTHER COUNCIL PRIORITIES

The report will ensure that effective governance arrangements with regards to RIPA remain in place by the Council.

9. CONCLUSION

The Senior Responsible Officer (Director of Legal & Democratic Services) considers that RIPA has been used appropriately in relation to all of the above uses of directed surveillance and acquiring of communications data and that RIPA has been used in a manner that is consistent with the Council's Corporate Policies.

LOCAL GOVERNMENT ACT 1972
AS AMENDED BY
THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
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Background Papers

Freestanding Report.