



RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

MONDAY 27TH MARCH 2023

REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) and INVESTIGATORY POWERS ACT 2016 (IPA) - USE OF INVESTIGATORY POWERS DURING 2022 BY RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

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

Author: Judith Parry, Trading Standards & Registrar Service Manager

1. PURPOSE OF THE REPORT

The purpose of the report is to enable Members to review:

- 1.1 The Council's use of the Regulation of Investigatory Powers Act 2000 (as amended) (RIPA) for the period 1st January to 31st December 2022;
- 1.2 The Council's use of the Acquisition of Communications Data under the Investigatory Powers Act 2016 (IPA) for the same period; and
- 1.3 The proposed amendment to the Corporate Policy and Procedures Document on The Regulation of Investigatory Powers Act (RIPA).

2. RECOMMENDATIONS

It is recommended that the Cabinet:

- 2.1 Note the content of the report;
- 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 2022;
- 2.3 Approve the amendment to Appendix 1 of the Corporate Policy and Procedures Document on The Regulation of Investigatory Powers Act (RIPA).

3 REASONS FOR RECOMMENDATIONS

- 3.1 To ensure Members are kept appraised as to how RIPA has been used during the period 1st January – 31st December 2022 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.
- 3.3 The Cabinet is responsible for approving revisions to the Council's Corporate RIPA Policy in order to ensure that it remains both accurate and fit for purpose.

4. USE OF RIPA BY THE COUNCIL: 1ST JANUARY TO 31ST DECEMBER 2022

Directed Surveillance and the use of Covert Human Intelligence Sources

New Authorisations

- 4.1 During the period 1st January – 31st December 2022 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 overt monitoring to reduce fly-tipping in the local authority area is proving successful in terms of evidence to take court action; 2023 will likely see a mix of overt and covert (requiring RIPA authorisation) activity to further address this issue.

Authorisations extant as at 1st January 2022

- 4.4 There were no directed surveillance authorisations that were carried forward from the previous calendar year (2021). Similarly, no authorisations in respect of a Covert Human Intelligence Source extant remain extant.

Authorisations extant as at 1st January 2023

- 4.5 No authorisations have been carried forward into 2023.

Human Rights Act Authorisations

- 4.6 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.
- 4.7 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.
- 4.8 During the period of this report, the HRA authorisations were:

<i>Anti-social behaviour monitoring</i>	0
<i>Underage sales test purchasing</i>	3
<i>Proxy sales monitoring</i>	0
<i>Internet site monitoring</i>	48
<i>Vehicle test purchasing</i>	0

- 4.9 Of note this period is the increase in respect of internet site monitoring. Such sites are predominantly monitored for investigations into sale of illegal product via social media.
- 4.10 Additionally, legitimate businesses who trade solely via social media may use their personal social media presence to sell their products. In these instances, it is important to ensure that collateral intrusion is minimised when that site is 'inspected' in the same way that a high street shop may be inspected for legal compliance of goods or services supplied.
- 4.11 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.
- 4.12 Activity in relation to underage sales test purchasing has recommenced after national risk assessment recommended a temporary cessation during the pandemic. The figure of 3 in the table at 4.8 relates to the number of days operations were conducted. In total, this represents 34 attempted sales for a number of age restricted products. Age-restricted products were supplied to an underage volunteer on five separate occasions. Two related

to alcohol sale: one premises was served a closure order, and another is subject to monitoring due to change of ownership, post-sale. Three further sales are subject to ongoing investigation: these relate to the sale of two vapes, and one knife.

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

Communications Data

- 4.14 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.
- 4.15 All three applications related to traders resident outside of Rhondda Cynon Taf who had defrauded local residents; two of the applications related to the same investigation.
- 4.16 The two linked applications resulted in tracing the trader to Derbyshire, and the investigation is progressing with surveyors reports being conducted on the work carried out. The second application returned information which pointed to a prolific rogue trader in the Cardiff area, unfortunately the consumer paid in cash and the work had already been rectified, hence no direct evidence to progress the investigation; however, information has been recorded on the Intelligence Database.

5 AMENDMENT TO THE CORPORATE RIPA POLICY

- 5.1 Appendix 1 (p.37) of the Corporate Policy and Procedures Document on The Regulation of Investigatory Powers Act (RIPA) lists those officers who can act as Authorising Officers for RIPA applications, prior to their submission to the Magistrates' Court. During review it was noted that a number of these officers had left the local authority, and there were changes in job title for others.
- 5.2 The Annex to this report shows the existing Appendix 1 and a proposed amendment. Whilst the number of Authorising Officers has reduced, there is still sufficient to meet both the demand of applications and legal requirements under the Act. Officers listed have all received training in relation to the Act and responsibilities as Authorising Officers. Further training is planned for 2023.

6 EQUALITY AND DIVERSITY IMPLICATIONS / SOCIO-ECONOMIC DUTY

An equality impact assessment is not needed as the content of this report is for information purposes only.

7 WELSH LANGUAGE IMPLICATIONS

Both RIPA and IPA policies are available on the Council website in Welsh.

8 CONSULTATION / INVOLVEMENT

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

9 FINANCIAL IMPLICATION(S)

There are no financial implications aligned to this report.

10 LEGAL IMPLICATIONS OR LEGISLATION CONSIDERED

The Regulations of Investigatory Powers Act (RIPA) and the Investigatory Powers Act (IPA) place a duty on local authorities to ensure that identified activity is compliant with legal controls and subject to annual scrutiny. Associated Home Office Codes of Practice require a local authority to have up to date and accurate procedures in place to ensure that the legal requirements are complied with. These procedures must be made public.

11 LINKS TO THE CORPORATE AND NATIONAL PRIORITIES AND THE WELL-BEING OF FUTURE GENERATIONS ACT

The use of RIPA and IPA as tools to effectively target illegal activity within the local authority, such as rogue trading and fly-tipping, links to two of the three Corporate Priorities, namely ensuing PLACES where people are proud to live, work and play, and enabling PROSPERITY for people and business to fulfil their potential and prosper.

Additionally, four of the seven Well-being Goals under the Well-being of Future Generations Act are met, namely a Prosperous Wales, a Healthier Wales, a More Equal Wales and a Globally Responsible Wales.

12 STRATEGIC OR RELEVANT TO ELECTORAL WARDS

The contents of this report are not specific to any one electoral ward.

13 CONCLUSION

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

Other Information:-

Relevant Scrutiny Committee: Overview Scrutiny

ANNEX TO REPORT

CURRENT APPENDIX 1: CORPORATE RIPA POLICY (p.37)

APPENDIX 1

List of Authorising Officer Posts

GROUP	Name of Contact Officer
<p>CHIEF EXECUTIVE <i>Authorising Officers:</i> Chief Executive Director of Regeneration and Planning</p>	<p>- Chris Bradshaw - Jane Cook</p>
<p>CORPORATE SERVICES <i>Authorising Officers:</i> Director of Legal and Democratic Services Service Director, Legal and Democratic Services Principal Solicitor Solicitor Head of Reviews and Benefits Team Manager Benefits</p>	<p>- - Chris Jones - Paul Nicholls - Simon Humphreys - Andrew Symes - Helen Phillips</p>
<p>COMMUNITY & CHILDREN'S SERVICES <i>Authorising Officers:</i> Service Director, Public Health & Protection Environmental Protection Manager Community Safety Manager Trading Standards Manager Housing and Enforcement Project Manager Food and Health and Safety Manager Pollution Manager Licensing Manager</p>	<p>- Paul Mee -- Louise Davies - - - Jennifer Ellis - - Neil Piliner -</p>
<p>Service Director Planning Manager Special Projects Planning Enforcement Manager Service Director for Highways & Streetcare Head of Streetcare</p>	<p>- Simon Gale - Jim Bailey - Julie Williams - Nigel Wheeler - Steve Owen</p>

SUGGESTED AMENDED APPENDIX 1: CORPORATE RIPA POLICY (p.37)

APPENDIX 1

List of Authorising Officer Posts

GROUP	Contact Officer
<p>CHIEF EXECUTIVE <i>Authorising Officers:</i> Chief Executive Director of Legal Services & SRO Service Director Legal Services</p>	<p>Paul Mee Andy Wilkins Paul Nicholls</p>
<p>CORPORATE AND FRONTLINE SERVICES <i>Authorising Officers:</i> Service Director, Streetcare Services Head of Revenue and Benefits</p>	<p>Steve Owen Matthew Phillips</p>
<p>COMMUNITY AND CHILDREN'S SERVICES <i>Authorising Officers:</i> Director of Public Health, Protection & Community Services Trading Standards and Registrar Services Manager Environmental Protection and Housing Standards Manager</p>	<p>Louise Davies Judith Parry Neil Pilliner</p>

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

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Background Papers

Freestanding Matter

Officer to contact: