



Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

CABINET

REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES – MR CRAIG GRIFFITHS

7th August 2024

Matter for Monitoring

Wards Affected: All Wards

Regulation of Investigatory Powers Act 2000

Purpose of the Report:

1. The purpose of this paper is to provide the Cabinet with information on the instances that Neath Port Talbot County Borough Council (“the Council”) used its investigatory powers in the last financial year, as required by the Code of Practice issued by the Home Office. It is also to provide assurance that the Council uses its surveillance powers in a lawful and proportionate way.

Executive Summary:

2. The Regulation of Investigatory Powers Act 2000 (RIPA) controls and regulates surveillance and other means of information gathering which public bodies employ in the discharge of their functions. RIPA provides an authorisation process for covert surveillance and information gathering, and an authorisation can be used as a defence against a claim that the council has

interfered with an individual's right to private life under Article 8 of the European Convention on Human Rights.

3. This report confirms that there has one use of surveillance powers for the year 1st April 2023 – 31st March 2024.

Background:

4. RIPA controls and regulates surveillance and other means of information gathering which public bodies employ in the discharge of their functions. RIPA provides an authorisation process for covert surveillance and information gathering, and an authorisation can be used as a defence against a claim that the council has interfered with an individual's right to private life under Article 8 of the European Convention on Human Rights.
5. RIPA regulates:
 - directed surveillance;
 - intrusive surveillance;
 - the conduct and use of covert human intelligence sources (CHIS);
 - intercepting communication; and
 - the acquisition and disclosure of communications data.
6. The Council has a RIPA Policy (copy enclosed at Appendix 1) which says that the Council will apply a presumption in favour of overt investigation methods, and that covert methods will be used only when other reasonable options have been considered and ruled out. Authorisations can generally only be made by the Authorising Officers (as detailed in the Policy) with ultimate responsibility for the Council's use of RIPA powers vesting in the Monitoring Officer.
7. The Council can only authorise the use of covert methods in very limited circumstances. The Council cannot authorise intrusive

surveillance. The Council can only authorise directed surveillance where this is necessary and proportionate for the purpose of preventing or detecting serious criminal conduct, and an authorisation cannot take effect until a Justice of the Peace (JP) or District Judge has made an order approving it.

8. The Council can only authorise the use of a Covert Human Intelligence Sources, or authorise the acquisition of communications data where this is necessary and proportionate for the purpose of preventing or detecting crime or of preventing disorder, and again an order by a JP approving the authorisation is required.
9. In the period of 1st April 2023 to 31st March 2024, the Council has undertaken one surveillance activity. This continues the theme for recent years:

Year	Number of Surveillance Applications
2018-2019	0
2019-2020	0
2020-2021	0
2021-2022	1
2022-2023	0
2023-2024	1

10. In respect of the 2023-2024 application, cameras were placed in an area, known to be used regularly for dumping waste, which was often then set alight. When recorded footage was examined, a successful prosecution was then able to take place.
11. Whilst the number of authorisations for RIPA surveillance activity remains low, this cannot be used as an indication of likely future use. The Council must ensure a suitable regime is in place to ensure legal compliance.

12. The Council's use of surveillance powers is regularly subject to external inspection by the Investigatory Powers Commissioner's Office. This Office was formed in September 2017 as a result of the introduction of the Investigatory Powers Act 2016, and is an amalgamation of three separate commissioners. These were the Office of the Surveillance Commissioner, the Interception of Communication Commissioner's Office, and the Intelligence Services Commissioner. In his regulatory function, the Assistant Surveillance Commissioner reviews the Council's use of directed surveillance, covert human intelligence source and CCTV systems under the Regulation of Investigatory Powers Act. The last inspection by the Investigatory Powers Commissioner's Officer, undertaken as a remote desktop inspection, occurred in Spring 2024.

13. The following commentary was provided by the Inspector:

- *I am satisfied that your reply provides your assurance that ongoing compliance with RIPA 2000 and the Investigatory Powers Act 2016 will be maintained. As such, your Council will not require further inspection this year.*
- *I am pleased to note that RIPA training continues to form a part of your compliance regime, with those most likely to utilise the covert powers regularly updated.*
- *Additionally, I acknowledge that your Authority fully recognises the need for managers to audit the use of social media by your staff.*
- *Two directed surveillance authorisations (DSAs) undertaken since the last inspection and utilised to assist in the investigation of waste crime, were reviewed by my Inspector. Both authorisations were found to have been well formed, but my Inspector would urge your authorising officers (AOs) to ensure that during the regular reviews of the authorised activity, that they revisit and document their contentment that the ongoing activity remains necessary and proportionate.*

- *I would ask that you ensure that the key compliance issues continue to receive the necessary internal governance and oversight through yourself and your Senior Responsible Officer: policy refreshes; annual updates to your Elected Members; ongoing training and awareness raising; internal compliance monitoring by lead managers within their business areas; and the retention, review and destruction (RRD) of any product obtained through the use of covert powers (Records and Product Management in accordance with the Safeguards Chapters of the relevant Codes of Practice).*

14. The principal reasons for the use of surveillance are for prevention and detection of crime and not for criminal proceedings. As such, conviction rates, although high, are not the only measure of success (different methods of disposal such as letters of written warning, Simple Cautions and website takedowns are also justifiable indicators of RIPA usage).

Financial Impacts:

15. No implications.

Integrated Impact Assessment:

16. An Integrated Impact Assessment is not requirement for this report.

Valleys Communities Impacts:

17. No implications

Workforce Impacts:

18. No implications

Legal Impacts:

19. Compliance is had at all times with RIPA and other associated legislation.

Consultation:

20. There is no requirement for external consultation on this item

Recommendations:

21. It is recommended that members:

- note the Neath Port Talbot County Borough Council Regulation of Investigatory Powers Act 2000 enclosed at Appendix 1
- note the contents of this report and that the Neath Port Talbot County Borough Council's surveillance powers continue to be exercised appropriately and proportionately.

Appendices:

22. Appendix 1 – NPTCBC RIPA Policy

List of Background Papers:

23. None

Officer Contact:

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