



## **FULL COUNCIL - INFORMATION REPORT**

Date Written	3 <sup>rd</sup> June 2021
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Service Area	Legal
Exempt/Non-Exempt	Non-Exempt
Committee Date	14 <sup>th</sup> July 2021

*To: Mayor, Ladies and Gentlemen*

## **REGULATION OF INVESTIGATORY POWERS ACT 2000**

### **1.0 SUMMARY OF THE REPORT**

1.1 To update and report upon the Council's use of its powers under the Regulation of Investigatory Powers Act 2000 (RIPA) for Directed Covert Surveillance, Covert Human Intelligence Sources (CHIS) and Interception of Communication Data for the period 1st January 2019 to the 31st December 2020.

### **2.0 INTRODUCTION AND BACKGROUND**

2.1 This report provides information on the Council's use of the Regulation of Investigatory Powers Act 2000 (RIPA) for Directed Covert Surveillance, and Covert Human Intelligence Sources (CHIS) for a two-year period between the 1st January 2019 and the 31st December 2020.

2.2 The Report also details the Council's use of its powers under RIPA to intercept communications data for the period for the same period.

2.3 Since the last Report on the Council's RIPA use on the 11<sup>th</sup> September 2019 the Council has been inspected by the Investigatory Powers Commissioner's Office (IPCO) and although we are yet to receive the inspection report there were no issues of concern regarding the Council's use of RIPA.

2.4 Reports detailing the Council's use of RIPA have been put to Council since RIPA was introduced in 2000 and it will be noted that the use of RIPA has reduced significantly especially from 2015 onwards due to benefit fraud investigations having been transferred to the Department of Work & Pensions, a reduction in Trading Standards staff and certain investigations previously carried out under the auspices

of RIPA now being carried out outside this legislation. As such RIPA is now principally carried out by Trading Standards, although other Council Departments for instance waste, public health and licensing are familiar with RIPA requirements and have been recently trained to recognise when RIPA authorisation is required and to understand how to apply for authorisation and to carry out surveillance under it. Added to this the coronavirus pandemic has further interrupted normal council services to the effect that RIPA authorisation has not been sought or granted since March 2021. It is anticipated that RIPA use will creep up as soon as enforcement by Trading Standards, Licensing, Public Health & Waste return to normal.

- 2.5 All Council RIPA use is managed by the Council's legal department using the Council's bespoke RIPA software.

### **3.0 THE COUNCIL'S USE OF COVERT SURVEILLANCE AND COVERT HUMAN INTELLIGENCE SOURCES**

- 3.1 The figures are broken down into two periods namely –

PERIOD 1 - 1st January 2019 to the 1st December 2019

PERIOD 2 - 1<sup>st</sup> January 2020 to the 31st December 2020

- 3.2 In accordance with statutory requirements reports for both years have been made to the Investigatory Powers Commissioner's Office. The Council will next report for 2021 use early next year.

#### **DIRECTED SURVEILLANCE**

- 3.3 Directed surveillance is, in essence, any activity undertaken by the Council covertly for the purpose of a specific investigation in such a way that is likely to result in obtaining information about a person's private life.
- 3.4 For PERIOD 1, three applications were made for directed surveillance with two of the same granted, both were then cancelled at the end of the authorised period in compliance with RIPA guidance. If additional surveillance was carried out in this period, it would have been surveillance that fell outside RIPA with all requests for surveillance assessed by Council RIPA authorising officers for Human Rights compliance thereby assuring that the surveillance activity was lawful and in line with standards set by the RIPA 2000.
- 3.5 For PERIOD 2, the Council did not carry out any RIPA authorised directed surveillance. An application was made but circumstances changed before authorisation was granted so the application was discarded, and no directed surveillance took place.

#### **COVERT HUMAN INTELLIGENCE**

- 3.6 A covert human intelligence source (CHIS) is usually an undercover officer or someone working under the supervision of an officer who develops or maintains their

relationship with the surveillance target, having the covert purposes of obtaining or accessing information for the investigator.

3.7 For PERIOD 1 the Council did not authorise the use of a CHIS. There was however one CHIS authorisation made the previous year that was renewed.

3.8 For PERIOD 2 the Council similarly did not authorise the use of a CHIS.

#### **4.0 THE COUNCIL'S USE OF RIPA TO INTERCEPT COMMUNICATIONS DATA**

4.1 For the two periods detailed previously in 3.1 above there were no Council applications to obtain communications data.

4.2 The process of authorisation to obtain communications data is different to the application process for Directed Surveillance and CHIS as applications to intercept communications data are made by Council Officers but submitted to the National Anti-Fraud network (NAFN) for their consideration and initial approval. NAFN provides a specialist service to local authorities with appropriate safeguards to ensure the credibility and the lawfulness of the Council's use of RIPA. They are responsible for reporting activity of this nature to the Investigatory Powers Commissioner's Office

#### **5.0 FINANCIAL IMPLICATIONS**

5.1 None. All RIPA use and training is undertaken from existing departmental budgets.

#### **6.0 INTEGRATED IMPACT ASSESSMENT**

	<b>Positive Impacts</b>	<b>Negative Impacts</b>	<b>Neutral/Not Applicable</b>
<b>1. Merthyr Tydfil Well-being Objectives</b>	0 of 4	0 of 4	4 of 4
<b>2. Sustainable Development Principles - How have you considered the five ways of working?</b> <ul style="list-style-type: none"> <li>• Long term</li> <li>• Prevention</li> <li>• Integration</li> <li>• Collaboration</li> <li>• Involvement</li> </ul>	4 of 5	0 of 5	1 of 5
<b>3. Protected Characteristics</b> (including Welsh Language)	0 of 10	0 of 10	10 of 10
<b>4. Socio-economic Disadvantage</b>	0 of 6	0 of 6	6 of 6

<b>5. Consultation and Engagement</b>	<b>Undertaken</b>	<b>Due to be Undertaken</b>	<b>Not Required</b>	
	0 of 1	0 of 1	1 of 1	
<b>6. Data and Evidence to inform the proposal</b>	<b>Yes</b>		<b>No</b>	
	1 of 1		0 of 1	
<b>7. Biodiversity and the resilience of Ecosystems</b>	<b>Maintained</b>	<b>Enhanced</b>	<b>Reduced</b>	<b>Neutral/Not Applicable</b>
	0 of 1	0 of 1	0 of 1	1 of 1
<b>Summary</b>				
<b>The main positive impacts are:</b>	The report demonstrates use of RIPA which is both consistent and legal and benefits the whole community.			
<b>The main negative impacts are:</b>	None			

**ELLIS COOPER  
CHIEF EXECUTIVE**

**COUNCILLOR ANDREW BARRY  
CABINET MEMBER FOR GOVERNANCE  
AND CORPORATE SERVICES**

<b>BACKGROUND PAPERS</b>		
<b>Title of Document(s)</b>	<b>Document(s) Date</b>	<b>Document Location</b>
None		
<b>Does the report contain any issue that may impact the Council's Constitution?</b>		No

***Consultation has been undertaken with the Corporate Management Team in respect of each proposal(s) and recommendation(s) set out in this report.***