



**POLICY AND PROCEDURES
FOR UNDERTAKING COVERT SURVEILLANCE
AND THE USE OF COVERT HUMAN INTELLIGENCE
SOURCES**

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CONTENTS

PART 1 POLICY FOR UNDERTAKING COVERT SURVEILLANCE AND USE OF COVERT HUMAN INTELLIGENCE SOURCES

1. Introduction
2. Background
3. What is Surveillance?
4. What is a Covert Human Intelligence Source (CHIS)?
5. Procedural principles for Surveillance and use of CHISs

PART 2 DETAILED PROCEDURE FOR UNDERTAKING DIRECTED SURVEILLANCE

1. Purpose
2. Scope
3. Procedure

PART 3 DETAILED PROCEDURE FOR USE OF COVERT HUMAN INTELLIGENCE SOURCES

1. Purpose
2. Scope
3. Procedure

APPENDIX 1 SAMPLE APPLICATION FORM FOR USE OF DIRECTED SURVEILLANCE

PART 1 POLICY FOR UNDERTAKING COVERT SURVEILLANCE AND USE OF COVERT HUMAN INTELLIGENCE SOURCES

1. INTRODUCTION

- 1.1 The performance of certain investigatory functions of local authorities may require the surveillance of individuals or the use of informants. Such actions may intrude on the privacy of individuals and can result in private information being obtained and as such, should not be undertaken without full and proper consideration. Legislation now governs how local authorities should administer and record surveillance and the use of informants and renders evidence obtained lawful for all purposes. This policy sets out the Council's rules and procedures for use by all sections of the Council in this respect.
- 1.2 The purpose of this policy is to ensure there is a consistent approach to the undertaking and authorisation of surveillance activity. Therefore this policy is to be used by all Council service areas and officers undertaking investigation work and using the techniques of surveillance or the use of Covert Human Intelligence Sources (CHIS's).
- 1.3 In the policy the following terms shall have the meanings stated:-
"Investigating Officer" shall mean any Council Officer undertaking or wishing to undertake directed surveillance or to use a CHIS who has received appropriate training.
"Authorising Officer" shall mean all Chief Officers, the Group Manager Regulatory Services (ETE) and Group Manager Investigations (Support Services) with the delegated power to authorise directed surveillance or the use of a CHIS provided he/she has received appropriate training.
- 1.4 This policy has been updated in April 2010 to reflect the following Four Statutory Instruments which incorporates new codes of practice for Covert Surveillance and Covert Human Intelligence Source (CHIS):
- The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 together with an Explanatory Memorandum.
 - The Regulation of Investigatory Powers (Covert Human Intelligence Sources: Code of Practice) Order 2010 together with an Explanatory Memorandum.
 - The Regulation of Investigatory Powers (Covert Surveillance and Property Interference: Code of Practice) Order 2010 together with an Explanatory Memorandum.
 - The Regulation of Investigatory Powers (Extension of Authorisation Provisions: Legal Consultations) Order 2010 together with an Explanatory Memorandum.

2. BACKGROUND

- 2.1 On 2nd October 2000 the Human Rights Act 1998 (HRA) came into force making it potentially unlawful for a local authority to breach any article of the European Convention on Human Rights (ECHR). Any such breach may now be dealt with by the UK courts directly rather than through the European Court at Strasbourg.
- 2.2 Article 8 of the ECHR states that “Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of:
- National security
 - Public safety
 - The economic well-being of the country
 - The prevention of disorder or crime
 - The protection of health or morals
 - The protection of the rights and freedoms of others”.
- 2.3 The performance of certain functions of local authorities may require the directed covert surveillance of individuals or the use of informants, known as CHIS. Those who undertake directed covert surveillance on behalf of a public authority may breach an individuals human rights unless the covert directed surveillance is consistent with Article 8 of the ECHR and is both necessary and proportionate to the matter being investigated. **Local authorities are only able to use the prevention or detection of crime or disorder as grounds for undertaking surveillance.**
- 2.4 In order to properly regulate the use of covert directed surveillance and the use of CHISs in compliance with the HRA, the Regulation of Investigatory Powers Act 2000 (RIPA) came into force on 25th September 2000.
- 2.5 RIPA requires that all applications to undertake covert directed surveillance of individuals or to use CHISs are properly authorised, recorded and monitored. This policy sets out the procedures that need to be followed by officers of the Council prior to undertaking and during such activities, to meet the requirements of RIPA.

2.6 Failure to comply with RIPA may leave the Council open to potential claims for damages or infringement of individual's human rights. It may also mean that any evidence obtained in breach of the provisions of RIPA is rendered inadmissible in Court.

3. WHAT IS SURVEILLANCE?

3.1 Surveillance is:

- Monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications;
- Recording anything monitored, observed or listened to in the course of surveillance, with or without the assistance of a device.

3.2 By its very nature, surveillance involves invading an individual's right to privacy. The level of privacy which individuals can expect depends upon the nature of the environment they are within at the time. For example, within an individual's own home or private vehicle, an individual can expect the highest level of privacy. The level of expectation of privacy may reduce if the individual transfers out into public areas.

3.3 There are different types of surveillance which, depending on their nature, are either allowable or not allowable and require differing degrees of authorisation and monitoring under RIPA.

3.4 **Overt surveillance** is where the subject of surveillance is aware that it is taking place. Overt surveillance does not contravene the HRA and therefore does not require compliance with RIPA. Therefore authorisation is **not** required for surveillance of the following kinds:

- General observations that do not involve the systematic surveillance of an individual or a group of people.
- Use of overt CCTV surveillance
- Use of overt ANPR systems to monitor traffic flows or detect motoring offences
- Surveillance undertaken as an immediate response to a situation
- Review of staff usage of the internet & e-mail.

3.5 **Covert surveillance** is defined as "surveillance which is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place" and is covered by RIPA. Covert surveillance is categorized as either intrusive or directed.

3.6 **Intrusive surveillance** is defined as covert surveillance that is carried out in relation to anything taking place on any residential premises or in any private vehicle and involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device. RIPA does not empower local authorities to authorise or undertake intrusive surveillance. Other means of investigation should be considered.

3.7 **Directed surveillance** is surveillance which is covert but not intrusive and undertaken;

- For the purposes of a planned specific investigation or operation;
- In such a manner as is likely to result in the obtaining of private information about a person (whether or not that person is specifically targeted for the purposes of an investigation or operation);and
- Other than by immediate response to circumstances when it would not be practical to seek authorisation, for example, noticing suspicious behaviour and continuing to observe it.

3.8 Private information should be interpreted to include any information relating to an individuals private, family or working life. The concept of private information should be broadly interpreted to include any aspect of a person's private or personal relations with others, including family and professional or business relationships. Family life should be treated as extending beyond the formal relationships created by marriage.

3.9 Directed surveillance involves the observation of a person or persons with the intention of gathering private information to produce a detailed picture of a person's life, activities and associations. Private information may include personal data such as names, telephone numbers and address details. Directed surveillance does not include entry on or interference with property or wireless telegraphy but may include the use of photographic and video equipment (including the use of CCTV). Covert directed surveillance is covered by RIPA and requires prior authorisation.

4. **WHAT IS A COVERT HUMAN INTELLIGENCE SOURCE (CHIS)?**

4.1 A CHIS is defined in section 25(7) of the RIPA Act 2000 as a person who establishes or maintains a personal or other relationship with another person for the covert purpose of facilitating anything that:

(a) covertly uses such a relationship to obtain information or to provide access to any information to another person; or

(b) covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship.

4.2 **It is not anticipated that CHISs will be used in the normal course of Council investigatory activity not least because of the strict formalities and procedural requirements.** Any Council Officer considering the use of a CHIS must first contact the Head of Legal & Democratic Services; the Chief Legal Assistant or the Group Auditor or to discuss the suitability of this approach.

4.3 Authorisation is not required when individuals, including members of the public, are requested to provide information pertaining to other individuals, unless they are required to form a relationship with those other individuals.

5. PROCEDURAL PRINCIPLES FOR SURVEILLANCE AND USE OF CHISs

5.1 Comprehensive procedures for undertaking directed surveillance and the use of CHISs are given in Parts 2 and 3 of this policy respectively.

5.2 The conduct of surveillance which is consistent with these procedures can be undertaken with confidence that any evidence obtained will be admissible in a criminal trial provided the conduct is authorised and is carried out in accordance with the authorisation. The authorisation must be shown to be necessary on the grounds of preventing or detecting crime or of preventing disorder.

5.3 The Investigating Officer seeking authorisation for directed covert surveillance or CHIS activity and the Authorising Officer must give consideration to the following factors:-

- **Necessity** – Is covert surveillance or CHIS activity the only or best way to retrieve the desired information, or are other less invasive methods appropriate?
- **Proportionality** – Is the surveillance activity or CHIS activity proportional to the evidence that will be obtained and to the privacy the subject could reasonably expect? The methods used to obtain evidence should not be excessive and should be as non-invasive as it possible and that the surveillance does not restrict an individual's right for privacy more than is absolutely necessary. To demonstrate proportionality it is useful to compare the cost of the proposed surveillance activity with the scope of the problem and to identify how much the activity will impinge on the subjects.
- **Collateral Intrusion** - Is the obtaining of information relating to persons other than the subject of the investigation and the need to minimise this?

5.4 Further Considerations:-

- Does the application relate to a prevalent offence?
- Have other ways of getting the information have been investigated?
- Is surveillance a reasonable approach and 'not a sledge hammer to crack a nut'?
- The risk of the direct surveillance and CHIS activity must be considered and managed;
- Surveillance authorisations remain valid for 3 months but should be cancelled prior to that if no longer required;
- CHIS authorisations remain valid for 12months and should be cancelled prior to that if no longer required;
- Authorisations should be periodically reviewed by the Authorising Officer and the need for continued surveillance or CHIS activity ascertained; if no longer required authorisations should be cancelled;
- Urgent authorisations can be granted orally, reviewed by the Authorising Officer in exceptional circumstances, and are valid for 72 hours only. For example, events which occur in your presence can be observed and submitted as evidence. However, if you wish to continue with the observation, it becomes a planned activity and an authorisation must be obtained.

5.5 **All officers undertaking directed surveillance or wishing to use a CHIS must have received appropriate training to enable them to undertake this task.**

5.6 Training should be periodically arranged to ensure that sufficient Authorising Officers are available.

5.7 Where surveillance or the use of CHISs is likely to result in the obtaining of confidential information, it is imperative that legal advice should first be sought from the Head of Legal & Democratic Services or the Chief Legal Assistant. The Authorising Officer will also need to consult with the Chief Executive & Town Clerk and obtain his approval before authorising it. Confidential information includes though is not limited to, matters subject to legal privilege, confidential personal information and confidential journalistic material. Confidential personal information is information held in confidence relating to the physical or mental health or spiritual counselling concerning an individual (whether living or dead) who can be identified from it.

5.8 The application for authorisation must include the following elements and the Authorising Officer must consider these, before authorising the directed surveillance or CHIS activity:-

- full details of the reason for the directed surveillance or CHIS activity and the intended outcome;
- the proposed surveillance activity described as fully as possible, with the use of maps or other plans as appropriate;
- the necessity and proportionality to the potential offence or irregularity under consideration and whether other methods of less intrusive investigation should/have been attempted and whether they are appropriate;
- the resources to be applied (although tactics and methods should not be included);
- the anticipated start date and duration of the activity, if necessary broken down over stages;
- details (including unique reference number) of any surveillance previously conducted on the individual.

In addition the Authorising Officer must notify the Chief Executive & Town Clerk before authorising the action.

- 5.9 Services that undertake surveillance activity or use of CHISs should put in place adequate arrangements for the retention of evidence gathered. If the evidence is to be used for criminal proceedings the arrangements must comply with the Criminal Procedure and Investigations Act 1996. Evidence should not be passed to other agencies unless consistent with the original authorisation, e.g. passing to the Police for criminal proceedings against offences included on the original authorisation.
- 5.10 The Authorising Officer's statement on the authorisation form should clearly demonstrate agreement that the activity is necessary and proportionate and that he/she has thoroughly considered the form before authorising.
- 5.11 The Head of Legal & Democratic Services has been assigned the role of the Councils RIPA monitoring officer and the Senior Responsible Officer. The Group Auditor will maintain this policy, ensuring that it reflects the up-to-date legislative situation and that the current versions are available to all relevant officers of the Council.
- 5.12 The Chief Legal Assistant will maintain a central record of authorisations. The central record will be used to track the progress of authorisations and ensure that reviews, renewals and cancellations take place within the prescribed timeframe. Copies of all RIPA authorisations, reviews, renewals and cancellations should be forwarded to Chief Legal Assistant promptly. The record will be available to the Office of Surveillance Commissioners (the body established to provide an oversight of the use of the powers contained in the act), should an inspection occur. The central

register format will be consistent with that detailed in the Home Office Code of Practice.

5.13 A report on the use of RIPA Act will be issued to the first Cabinet of the municipal year. Cabinet will set/endorse this policy and review the authority's use of the RIPA Act.

5.14 Each section head whose section undertakes directed surveillance or CHIS activity will ensure that:-

- staff receive the necessary training;
- all activity is in accordance with RIPA and the Code; and
- relevant procedures are maintained to ensure the above.

6 BACKGROUND PAPERS

- Part 11: Regulation of Investigatory Power Act 2000; Surveillance and Covert Human Intelligence Sources;
- Statutory Instrument 2000No 2417: the Regulation of Investigatory Powers (prescription of Offices Ranks and Positions) order 2000;
- Home Office Covert Surveillance Code of Practice; and
- Home Office CHIS Code of Practice.

PART 2 DETAILED PROCEDURE FOR UNDERTAKING DIRECTED SURVEILLANCE

1. PURPOSE

- 1.1 To ensure that surveillance is only undertaken in appropriate cases, is properly authorised and recorded and is compliant with the Human Rights Act 1998, Regulation of Investigatory Powers Act 2000 and appropriate Code of Practices, made there under.

2. SCOPE

- 2.1 This procedure applies when the potential surveillance relates to criminal activities, applies to all sections and Investigating Officers, who routinely or occasionally undertake covert directed surveillance activity and must be complied with. Local investigation procedures should make reference to this policy.

3. PROCEDURE

- 3.1 It is very important that the correct authorisation procedure is followed prior to undertaking surveillance activity. Interference of the right to privacy without proper authorisation may render any evidence obtained unusable in a criminal court. If surveillance is conducted on individuals without the necessary authorisation, the Council and possibly individuals may be sued for damages for a breach of Human Rights. In civil matters adverse inferences may be drawn from such interference.
- 3.2 This procedure is supported by the Home Office 'Code of Practice – Covert Surveillance' which is available on the Home Office website. If the surveillance is not likely to obtain private information, the codes do not apply. All Investigating Officers and Authorising Officers should fully acquaint themselves with the Code of Practice and refer to it during both the application and authorisation processes.
- 3.3 All covert directed surveillance activity must be approved prior to the activity taking place. Officers seeking authority to undertake surveillance should complete the form, 'Application for use of Directed Surveillance'. A sample application form with notes is attached at **Appendix 1**, but the latest version from the Home Office website must always be used. Completed application forms should be forwarded to the relevant Authorising Officer.
- 3.4 For those matters which are urgent, namely where it is not practicably possible to obtain the necessary prior approval, authorisation may be given orally by an Authorising Officer. However as soon as is reasonably

practicable afterwards, the authorisation must be recorded in writing and the Authorising Officer must sign the form. Oral authorisations may be given for new or renewal cases but only last 72 hours after which time a full written authorisation must be obtained. Where oral approvals are given it is good practice for the Authorising Officer to keep a written record of the conversation and to ensure that the oral authorisation covers all aspects that are included in a written authorisation. Although the latest guidance from the Home Office does not require a full written application form to be submitted following urgent authorisations, the Council's Policy should be adhered to and a full application form should be completed.

- 3.5 Completed authorisation forms should be allocated a reference number by the Investigating Officer relevant to the department/team and the particular investigation. The reference number should also reflect the number of authorisations in respect of the investigation.
- 3.6 The Authorising Officer will consider the completed application form and inform the Investigating Officer of his/her decision. The Authorising Officer will retain a copy of the authorisation form and monitor this for review, renewal and cancellation.
- 3.7 The Investigating Officer and the Authorising Officer must give consideration to the following factors:-
 - **Necessity** – is covert surveillance the only or best way to retrieve the desired information, or are other less invasive methods appropriate?
 - **Proportionality** –
 - balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
 - explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others;
 - considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result; and
 - evidencing, as far as reasonable practicable, what other methods had been considered and why they were not implemented.
 - **Collateral intrusion** – that is the obtaining of information relating to persons other than the subject of the investigation and the need to minimise this.

In addition the Authorising Officer must notify the Chief Executive & Town Clerk before authorising the surveillance

- 3.8 Copies of all authorisations must be forwarded to the Chief Legal Assistant promptly before the surveillance activity commences to ensure it meets all the necessary requirements. The Chief Legal Assistant is responsible for giving each authorisation a central unique identification number using a standard consistent format and recording it in a central register. This is to ensure that an up-to-date central record is maintained for all directed covert surveillance activity. Similarly, copies of all cancellations, renewals and review applications should be forwarded to the Chief Legal Assistant promptly. The original authorisation should be kept on the investigation file.
- 3.9 The Investigating Officer and the Authorising Officer must consider the possibility that the surveillance activity may result in the acquiring of **confidential information**. If this is considered to be likely then the Investigating Officer must highlight this on the application. **The Authorising Officer must then consult with the Chief Executive & Town Clerk and obtain his approval before giving authorisation.**
- 3.10 Written surveillance authorisations last for a maximum of three months. Surveillance authorisations should be cancelled when no longer required. The Investigating Officer should complete the 'Cancellation of the use of Directed Surveillance' form available on the Home Office website and forward to the relevant Authorising Officer.
- 3.11 All Investigating Officers completing RIPA applications must ensure that applications are sufficiently detailed. Authorising Officers should refuse to authorise applications that are not to the required standard and should refer them back to the Investigating Officers.
- 3.12 Any proposed or unforeseen changes to the nature or extent of the surveillance operation which may result in the further or greater intrusion into the private life of any person should be brought to the attention of the Authorising Officer by means of a review.

Each application should be reviewed after an appropriate period of time and at most one month after the authorisation or previous review. The responsibility for review rests with the Authorising Officer who should conduct the review with the Investigating Officer. Reviews should not be conducted solely by the Investigating Officer. In some cases, the Authorising Officer may delegate the responsibility for conducting of reviews to a subordinate Officer. Details of the review should be recorded on the form 'Review of the use of Directed Surveillance Authorisation', available on the Home Office website and retained with the original authorisation. The Authorising Officer must ensure through diarisation or otherwise that regular reviews are conducted within the correct timeframe.

3.13 Applications to renew an authorisation can be made by the Investigating Officer using the form 'Renewal of Directed Surveillance' available from the Home Office web site. Applications for renewal must be made before the expiry of the original authorisation. The same conditions for review and cancellation apply to renewals as apply to original authorisations.

3.14 The following specific situations do not require directed surveillance authorisation:

- The recording (whether overt or covert) of an interview with a member of public where it is made clear that the interview is entirely voluntary and that the interviewer is a member of the public authority
- The covert recording of suspected noise nuisance where the intention is **only** to record excessive noise levels from adjoining premises and the recording device is calibrated to record only excessive noise levels – the perpetrator would normally be regarded as having forfeited any claim to privacy

4. JOINT AGENCY SURVEILLANCE

4.1 In cases where one agency is acting on behalf of another, it is usually for the lead agency to obtain or provide the authorisation. For example, where surveillance is carried out by Council employees on behalf of the Police, authorisation would be sought by the police. If it is a joint operation involving both agencies the lead agency should seek authorisation.

4.2 Council staff involved with joint agency surveillance are to ensure that all parties taking part are authorised on the authorisation page of the application to carry out the activity. When staff are operating on another organisation's authorisation they are to ensure they see what activity they are authorised to carry out and make a written record. They should also inform the Head of Legal & Democratic Services or the Chief Legal Assistant of the unique reference number, the agencies involved and the name of the officer in charge of the surveillance.

PART 3 DETAILED PROCEDURE FOR USE OF COVERT HUMAN INTELLIGENCE SOURCES (CHIS)

1. PURPOSE

- 1.1 To ensure that CHIS activity is only undertaken in appropriate cases is properly authorised and recorded and is compliant with the Human Rights Act 1998 and Regulation of Investigatory Powers Act 2000 and the appropriate Code of Practices, made there under.

2. SCOPE

- 2.1 This procedure applies to all usage of under-cover officers or informants, referred to as Covert Human Intelligence Sources (CHISs). This procedure does not apply to members of the public or Council officers who volunteer information pertaining to other individuals unless they are required to form a relationship with those other individuals.
- 2.2. Test purchase activity does not in general require authorisation under RIPA as vendor-purchaser activity does not constitute a relationship
- 2.3 All sections of the Council who routinely or occasionally undertake CHIS activity must comply with this procedure and ensure that their local procedures make reference to this document.

3. PROCEDURE

- 3.1 It is very important that the correct authorisation procedure is followed prior to undertaking CHIS activity. Interference of the right to privacy without proper authorisation may render any evidence obtained unusable in a criminal court. If CHIS activity is conducted without the necessary authorisation, the Council and possibly individuals may be sued for damages for a breach of Human Rights. In civil matters adverse inferences may be drawn from such unlawful interference.
- 3.2 This procedure is supported by the Home Office 'The Use of Covert Human Intelligence Sources' Code of Practice, which is available on the Home Office website. All Investigating Officers and Authorising Officers should fully acquaint themselves with the Code of Practice and refer to it during both the application and authorisation processes.
- 3.3 All CHIS activity must be approved prior to the activity taking place, except in urgent circumstances where it is not practicably possible to do so. Officers seeking authority to undertake CHIS activity should complete the

form 'Application for the Use of a Covert Human Intelligence Source (CHIS)' available from the Home Office Website. Completed application forms should be forwarded to the relevant Authorising Officer, as per the Council's Constitution Part 3 Schedule 3 section 5.1.

- 3.4 Each CHIS must have a dedicated handler who is responsible for day to day contact with the CHIS. This officer should be identified prior to the authorisation being sought. The Authorisation Officer should maintain oversight of the management of the CHIS.
- 3.5 Application forms should be allocated a reference number by the applicant relevant to the department and the particular investigation. The reference number should also reflect the number of authorisations in respect of the investigation.
- 3.6 The application for authorisation must include full details of the reason for the CHIS and the intended outcome of the activity. The necessity for the CHIS activity should be explained. The CHIS activity must be proportionate to the potential offence or irregularity under consideration and should only be used when other methods of less intrusive investigation have been attempted or are not appropriate. CHIS authorisation forms must include enough detail for the Authorising Officer to make an assessment of the necessity and proportionality of the application. The application form must include details of the resources to be applied, the anticipated start date and duration of the activity, if necessary broken down over stages. Details should also be given of any CHIS activity previously conducted on the individual.
- 3.7 The authorisation request should be accompanied by a risk assessment, giving details of how the CHIS is going to be handled and the arrangements which are in place for ensuring that there is at all times a person with responsibility for maintaining a record of the use made of CHIS. The risk assessment should take into account the safety and welfare of the CHIS in relation to the activity and should consider the likely consequences should the role of the CHIS become known. The ongoing security and welfare of the CHIS after the cancellation of the authorisation should also be considered at the outset.
- 3.8 The Officer requesting authorisation for CHIS activity must give consideration to the following factors:-
 - **Necessity** – is covert surveillance the only or best way to retrieve the desired information, or are other less invasive methods appropriate.
 - **Proportionality** – is the surveillance activity proportional to the evidence that will be obtained and to the privacy the subject could

reasonable expect. Are the methods used excessive and are they as non-invasive as is possible, and does the surveillance restrict an individuals right for privacy more than is absolutely necessary. To demonstrate proportionality it is useful to compare the cost of the proposed surveillance activity with the scope of the problem and the potential impact on those impacted by the problem, and to identify how much the activity will impinge on the subjects.

- **Collateral intrusion** - is the obtaining of information relating to persons other than the subject of the investigation. The application must show what steps are to be taken so as to minimise collateral intrusion.

- 3.9 The Authorising Officer will consider the completed application form and inform the officer making the application of his decision. The Authorising Officer will retain a copy of the authorisation form and monitor this for review, renewal and cancellation.
- 3.10 The Chief Legal Assistant is responsible for giving each authorisation a central unique identification number using a standard consistent format, for all CHIS activity and recording it in a central register. The original authorisation should be kept on the investigation file.
- 3.11 All officers completing CHIS applications and in particular officers authorising applications must ensure that applications are sufficiently detailed. Authorising Officers should refuse to authorise applications that are not to the required standard and should refer them back to the originating officers.
- 3.12 All authorised forms should be referred to the RIPA monitoring officer (Head of Legal & Democratic Services) or in his absence the Chief Legal Assistant before CHIS activity commences to ensure that they comply with the required standard.
- 3.13 In urgent circumstances, as soon as practical the officer should seek an urgent oral authorisation from an Authorising Officer. A record must be made as soon as possible of the oral authorisation which should be signed and dated by the officer making the request. As soon as possible after the event the Authorising Officer should be asked to countersign the record of the oral authorisation. Where oral approvals are given it is good practice for the Authorisation Officer to keep a written record of the conversation and to ensure that the oral authorisation covers all aspects that are included in a written authorisation. Oral authorisations may be given for new or renewal cases but only last 72 hours after which time a full written authorisation must be obtained.

- 3.14 The investigating officer and the Authorising Officer must consider the possibility that the CHIS activity may result in the acquiring of confidential information. If this is considered to be likely then the investigating officer must state this on the application. The Authorising Officer must then refer the application to the Chief Executive & Town Clerk.
- 3.15 Written CHIS authorisations last for a maximum of 12 months. CHIS authorisations should be cancelled when no longer required. The investigating officer should complete the 'Cancellation of an Authorisation of the Use or Conduct of a Covert Human Intelligence Source (CHIS)' form available on the Home Offices website and forward to the relevant Authorising Officer.
- 3.16 Each CHIS should be managed through a system of tasking and review. Tasking is the assignment given to the CHIS by the handler. The task could be asking the CHIS to obtain information, to provide access to information or to otherwise act for the benefit of the Council. The handler is responsible for dealing with the CHIS on a day to day basis, recording the information provided and monitoring the CHIS's security and welfare. The Authorising Officer should maintain general oversight of these functions.
- 3.17 During CHIS activity there may be occasions when unforeseen action or undertakings occur. Such incidences should be recorded as soon as practicable after the event and if the existing authorisation is insufficient, it should either be updated and re-authorised (for minor amendments only) or it should be cancelled and a new authorisation obtained before any further action is carried out. Similarly, where it is intended to task a CHIS in a new significantly different way than previously identified, the proposed tasking should be referred to the Authorising Officer, who should consider whether a separate authorisation is required. This should be done in advance of any tasking and details of such referrals must be recorded.
- 3.18 Each application should be regularly reviewed on a monthly basis. The responsibility for reviewing rests with the Authorising Officer who should contact and review the application with the Investigating Officer. Reviews should not be conducted solely by the Investigating Officer. The review should include a reassessment of the risk assessment, with particular attention given to the safety and welfare of the CHIS. The Authorising Officer should decide whether it is appropriate for the authorisation to continue. Details of the review should be recorded on the form 'Review of a Covert Human Intelligence Source (CHIS) Authorisation' available on the Home Office website, and retained with the original authorisation. Cases should be reviewed at no more than one month intervals. The Authorising Officer must ensure, through diarisation or otherwise, that regular reviews are conducted within the correct timeframe.

3.19 Applications to renew an authorisation can be made by the Investigating Officer using the form 'Renewal of Authorisation to use Covert Human Intelligence Source (CHIS)' available on the Home Office website. Applications for renewal must be made before the expiry of the original authorisation. The same conditions for review and cancellation apply to renewals as apply to original authorisations.

3.20 The Investigating Officer is responsible for forwarding a copy of the CHIS authorisation to the Chief Legal Assistant promptly. Similarly, copies of all applications for cancellations and renewals should be forwarded to the Chief Legal Assistant using the appropriate forms.

In addition the Authorising Officer must notify the Chief Executive & Town Clerk before authorising the surveillance.

3.21 The following specific situation does not require CHIS authorisation:

- The use of a recording device by a CHIS who has been granted authorisation can record any information obtained in his/her presence