

Unique Reference Number	
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NON-RIPA Authorisation Form

Application for Authorisation to conduct Covert Surveillance not regulated by RIPA

Sample Form with Notes to Assist Completion

This form should be completed by an officer of the Council seeking authorisation to carry out surveillance which **does not** fall within the definition of Directed Surveillance in section 28 of the Regulation of Investigatory Powers Act 2000 (RIPA). This could include surveillance where the target is doing something which is not a criminal offence (or which does not carry a term of imprisonment of six months or more), misusing the work email/internet system or breaching a legal agreement (e.g. tenancy agreement) or overt surveillance such as in noise nuisance cases with a MATRON or other equipment where the subject has been warned that the surveillance could take place.

Before completing this form, please consult the Council's Corporate Policy, the Home Office Codes of Practice, and the Guidance by the Investigatory Powers Commissioners Office (IPCO.) Please use this form and after reading the notes please delete them and replace with the correct details as required.

Once completed this form should be forwarded to your manager to complete box 11 onwards.

Public Authority <i>(including full address)</i>	Burnley Borough Council Town Hall, Manchester Road, Burnley, BB11 1JA		
Name of Applicant		Service Unit	
Full Address			
Contact Details			
Investigation/Operation Name (if applicable)			
Investigating Officer (if a person other than the applicant)			

DETAILS OF APPLICATION

1. Give rank or position of the authorising officer

2. Describe the purpose of the specific operation or investigation

Explain what is being investigated. For example:

- Misuse of email/internet
- An employee “fiddling” his/her timesheet
- Breach of a tenancy agreement
- To obtain evidence to justify the service of a noise abatement notice where private information could be obtained.

If possible, include the relevant legislation that which gives you the power/duty to investigate the matter and to take action.

3. Describe in detail the surveillance operation to be authorised and expected duration, including any premises, vehicles or equipment (e.g. camera, binoculars, and recorded) that may be used.

The key

phrase is “in detail.” Therefore, a response which merely states “Video camera and recording equipment will be installed a at a fixed point” will not be adequate.

Your statement here needs to include what is going to be done, who is going to do it, when they are going to do it, where they are going to do it and how they are going to do it. Other points to address here include:

- How long will the surveillance last?
- Specific details about dates and times i.e. is it 24/7, at specific times of the day or at random times?
- Which premises are to be used and/or targeted?
- Which vehicles are to be used? Are they public or private?
- What type of equipment is to be used? e.g. covert cameras, audio devices
- What is the capability of the equipment to be used? e.g. zoom lense, remote controlled etc.
- Who else will be involved in the operation and what will be their role? e.g. private detectives, police

It may be appropriate to attach plans/maps showing where and how the surveillance will be conducted and indicating where any surveillance equipment will be installed.

4. The identities, where known, of those to be subject of the directed surveillance.

- Name:
- Address:
- DOB:
- Other information as appropriate:

Include as much information as you have. If you do not know the identity of the target(s) then say so. You could include a general description of the targets.

5. Explain the information that it is desired to obtain as a result of the directed surveillance.

Your statement here should be more detailed than in Box 2. You should give details of the precise information sought by those doing the surveillance. For example:

- “To ascertain what time the employee enters and leaves the office.”
- “To find out what websites the employee has been visiting and what images have been downloaded.”

6. Has any warning/notice been served on the target? If not, explain why this surveillance needs to be covert

The warning could be general one (e.g. signs/published policy) or it could be more specific (e.g. letter).

Explain any overt methods e.g. direct contact with the perpetrator or evidence from witnesses you have tried to obtain the evidence/information or why they are not appropriate.

Explain the consequences of the target finding out about this surveillance or if a warning had been given what are the chances of private information being obtained.

7. Explain why this surveillance is necessary

Include in this box details of:

- Why surveillance is needed to obtain the information/evidence that is sought
- Any other means you have tried (not involving surveillance) to obtain the same information/evidence
- Any other evidence/information you have to link the target with the offender which requires corroboration through surveillance.

8. Supply details of any potential collateral intrusion and why the intrusion is unavoidable. Describe precautions you will take to minimise collateral intrusion.

When doing surveillance, you may be invading the privacy of those who are not your target. You are required to think about their rights and what you can do to minimise the impact on them of your surveillance. People who may be the subject of collateral intrusion include:

- fellow employees
- visitors to a property
- friends or relatives of the suspect

When completing this section, three matters should be addressed:

Firstly, identify which third parties will be the subject of collateral intrusion and what that intrusion will be i.e., what information will be captured about them?

Secondly, state why this is unavoidable. This could be because of the nature of the premises (e.g., a restaurant) or because of what the person is doing (e.g. visiting the subject/target premises). In some cases there will always be third parties around who will be captured on film or whose activities will be recorded/observed in some way.

Thirdly, set out what steps you have taken to minimise collateral intrusion if this is possible.

If you cannot minimise collateral intrusion you still need to show you have considered it. In some situations, all you may be able to state is that you cannot do anything to minimise collateral intrusion but you will not be making any decisions based upon the information gathered about third parties unless it shows them committing a criminal offence. Furthermore, you will ensure that officers who do the surveillance or view any recordings are mindful of who the real target of the surveillance is.

9. Explain why this surveillance is proportionate to what it seeks to achieve. How intrusive might it be on the subject of surveillance or on others? And why is this intrusion outweighed by the need for surveillance in operational terms or can the evidence be obtained by any other means?

The RIPA Covert Surveillance Home Office Code of Practice contains detailed guidance on proportionality:

“4.5 This involves balancing the seriousness of the intrusion into the privacy of the subject of the operation (or any other person who might be affected) against the need for the activity in investigative and operational terms.”

“ 4.6 The authorisation or warrant will not be proportionate if it is excessive in the overall circumstances of the case. Each action authorised should bring an expected benefit to the investigation or operation and should not be disproportionate or arbitrary. The fact that a suspected offence may be serious will not alone render intrusive actions proportionate. Similarly, an offence may be so minor that any deployment of covert techniques would be disproportionate. No activity should be considered proportionate if the information which is sought could reasonably be obtained by other less intrusive means.”

Here you demonstrate that you have:

- balanced the size and scope of the proposed activity against the gravity and extent of the perceived crime or harm;
- explained how and why the methods to be adopted will cause the least possible intrusion on the subject and others;
- considered whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the information sought;
- evidenced, as far as reasonably practicable, what other methods had been considered and why they were not implemented or have been implemented unsuccessfully.

In order to comply with the above you need to address the following questions:

- Can you get information using less intrusive means/overt methods?
- What other means have you tried to obtain the same information/evidence?
- What have you done to try and lessen the impact on the target? Factors to address include:
 - Amount of information to be gathered during surveillance
 - The way the surveillance is done e.g. using still cameras rather than video to capture less information or using one camera rather than two.
 - Impact of the surveillance on the subject
 - Timing of the surveillance

At the same time, the above must be balanced with the need for the activity in operational terms. To demonstrate this balance you should address:

- What you are seeking to achieve?
- Seriousness and extent of the offence
- Impact of the offence on the victims, others/wider community and on the public purse

For more guidance on proportionality see chapter 4 of the RIPA Covert Surveillance and Property Code of Practice issued by the Home Office and the Employment Practices Data Protection Code issued by the Information Commissioner (Part 3).

10. Applicant's Details			
Name (print)		Telephone no.	
Grade/Rank		Date	

Signature	
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11. Authorising Officer's Statement. [Spell out the "5 Ws" – Who; What; Where; When; Why and HOW– in this and the following box.]

I hereby authorise directed surveillance defined as follows: *[Why is the surveillance necessary, Who is the surveillance directed against, Where and When will it take place, What surveillance activity/equipment is sanctioned, How is it to be achieved?]*

This section is for the Authorising Officer to complete. Ensure that you are satisfied that any covert monitoring is strictly targeted at obtaining evidence within a set timeframe and that it does not continue after the investigation is complete. Sufficient detail must be included here to demonstrate that you, as the Authorising Officer, have considered the application objectively. Reference can be made to the boxes completed by the Investigating Officer above but "cut and paste" should be avoided. The five "Ws" stated above must be addressed in detail. This is important so that the Investigating Officers are clear as to what they can and cannot do and the means they can adopt. You should not be afraid to reject the application if it lacks clarity or detail.

12. Explain why you believe the surveillance is necessary. Explain why you believe the surveillance to be proportionate to what is sought to be achieved by carrying it out.

You should satisfy yourself that there are grounds for suspecting criminal activity or equivalent malpractice and that notifying individuals about the monitoring would prejudice its prevention or detection. Set out what matters in the respective boxes you have given particular weight to when considering necessity and proportionality. You can also add any additional factors you have considered.

Date of first review	If the surveillance operation is going to last more than a month then you should consider whether it should be reviewed after a period of time. During a review, consideration will have to be given to whether the surveillance is still necessary and proportionate.		
Programme for subsequent reviews of this authorisation: Only complete this box if review dates after the first review are known. If not or inappropriate to set additional review dates then leave blank			
Name (print)		Grade/Rank	State the position of the Authorising Officer e.g. Head of Audit
Signature		Date and time	
Authorising Officers should not normally be responsible for authorising operations in which they are directly involved, although it is recognised that this may sometimes be unavoidable, especially in the case of small organisations, or where it is necessary to act urgently or for security reasons.			
Expiry date and time			

NOTE: Once an authorisation has been granted, a copy of this form must be sent to the legal department or other person in charge of keeping such records.

When the surveillance has ended or is no longer required it is good practice to cancel the authorisation. This can be done using the following form.