

MIDDLESBROUGH COUNCIL	
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Report of:	Director of Legal and Governance Services
Submitted to:	Individual Executive Member Decision-Making: The Mayor
Date: TBD	17 December 2024
Title:	Surveillance Policy 2024/5
Report for:	Decision
Status:	Public
Council Plan priority:	Delivering Best Value
Key decision:	No
Why:	Decision does not reach the threshold to be a key decision
Subject to call in?:	Yes
Why:	Not urgent

Proposed decision(s)	
That the Mayor:	
<ul style="list-style-type: none"> • AGREES the annual review of the Surveillance Policy. 	

Executive summary	
<p>This report seeks approval of an updated Surveillance Policy. In accordance with the Statutory Codes of Practice applying to the Regulation of Investigatory Powers Act 2000 (RIPA) The Authority is required to review its use and set out the Policy at least annually.</p>	

Purpose

1. This report presents seeks approval of the proposed corporate Surveillance Policy 2024/25.
2. Guidance underpinning the Regulation of Investigatory Powers Act (RIPA) 2000 states that elected members should review the Council's use of RIPA powers and set the RIPA policy at least once per annum.
3. Use of RIPA powers are considered annually by Audit Committee as part of the annual report of the Senior Information Risk Owner. Statistical information on use of the powers will be reported to a future meeting of the relevant Scrutiny Panel.

Recommendations

4. That the Mayor:

AGREES the annual review of the Surveillance Policy.

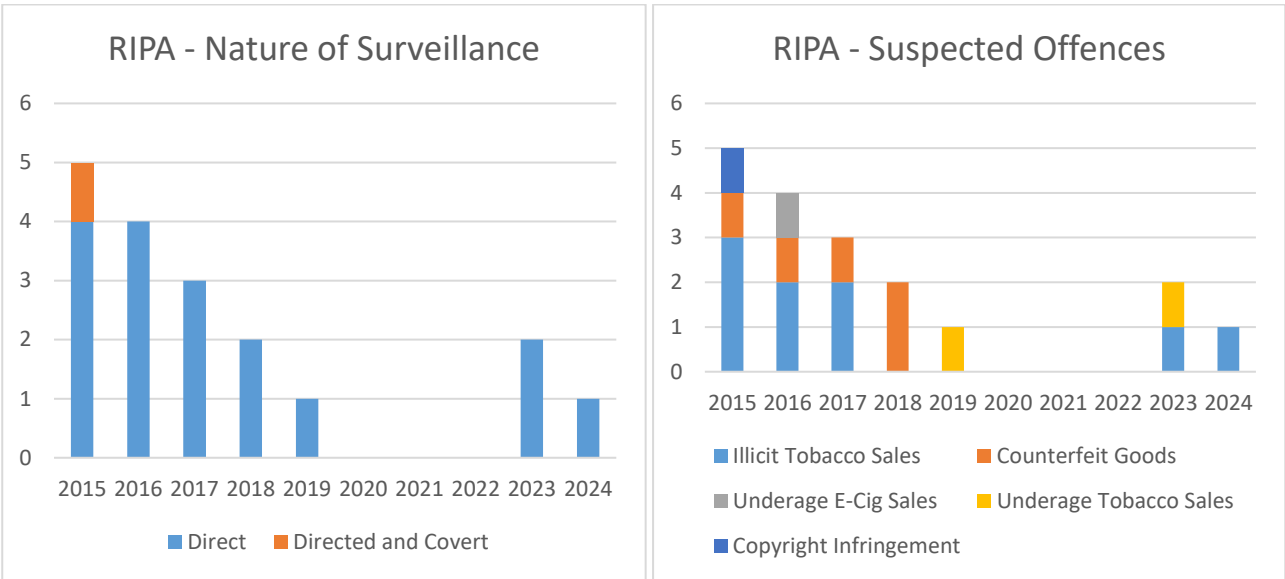
Rationale for the recommended decision(s)

5. The proposed policy will ensure that surveillance activity undertaken by the Council complies with its strategic priorities and statutory obligations, is lawful and that due regard is given to human rights and to data protection rights.

Background and relevant information

Use of RIPA

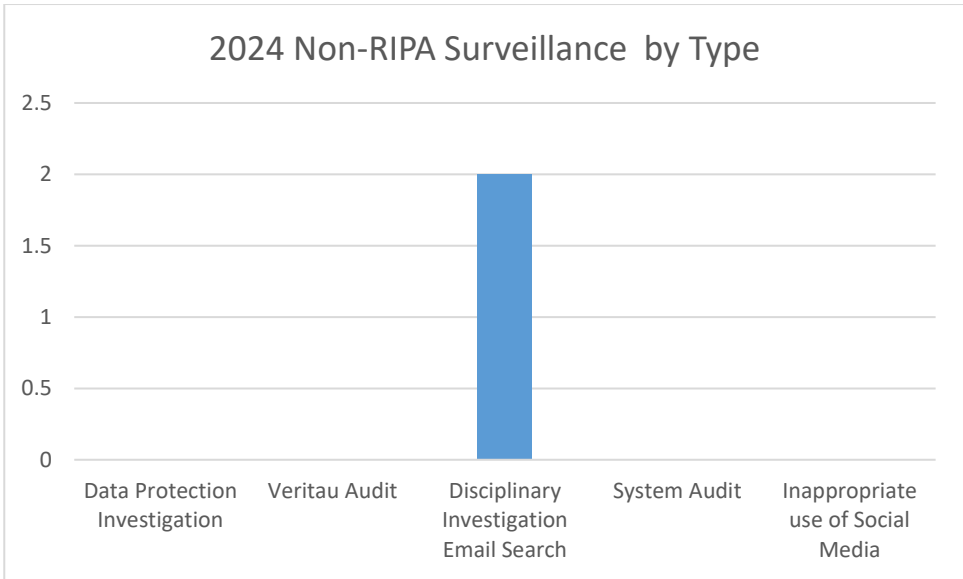
6. RIPA is the law governing the use of surveillance techniques by public authorities, including local authorities. RIPA requires that when public authorities need to use covert techniques to obtain private information about someone, they only do so if surveillance is necessary, proportionate, and compatible with human rights. Typically, this relates to suspected criminal activity that is likely to result in a custodial sentence of six months or more.
7. In such instances, covert surveillance can be undertaken, subject to magistrate approval, if it is not possible to gather sufficient evidence to secure a prosecution without this.
8. The charts below set out the past ten years of RIPA activity undertaken by the Council, the nature of the surveillance and the reasons why it was undertaken. To note, the Council always looks to methods to gather information that do not require covert surveillance to be undertaken, in order to minimise use of this power, therefore activity remains low.



9. Since this policy was last reviewed, one RIPA application was submitted in 2024.

Non-RIPA surveillance

10. The Council also has in place a process, set out within the Surveillance policy, which governs the application of requests for surveillance on non-RIPA grounds. The data for 2024 relates to staffing matters, these are centrally logged and approved by HR to again ensure the use of this power is minimised and there is a legitimate basis for use is identified prior to approval. The table below sets out the reasons this power used to investigate the following potential issues:



Monitoring and review

- 11. This Policy is updated annually and was last approved by the Executive Member for Finance and Governance in December 2023.
- 12. As was agreed with the IPCO following their last inspection in late 2020 we continue to maintain an overarching Surveillance Policy (Appendix 1), which covers CCTV, RIPA, non-RIPA covert surveillance and the surveillance of employees.
- 13. The Council’s policy aligns with guidance published by the Information Commissioners Office on monitoring workers.
- 14. The Surveillance policy review this year has had minor changes to reflect staffing, no other change has been necessary.

Other potential alternative(s) and why these have not been recommended

- 15. The Council could choose to restrict this policy to RIPA activity only and develop and implement separate policies relating to non-RIPA surveillance, employee surveillance and other issues not currently covered by policy. However, this is not recommended, as a single policy provides for a coherent and systematic approach and is in line with the Council’s commitment to openness and transparency.

Impact(s) of the recommended decision(s)

Topic	Impact
Financial (including procurement and Social Value)	It is anticipated that all activities require by the policy are achievable within existing and planned budgets.
Legal	The report and its associated action plan, demonstrates how the Council does and will continue to meet its various legal duties when undertaking surveillance.
Risk	Implementation of the proposed Surveillance Policy mitigates a number of risks within the Council’s strategic and information risk registers, having a positive overall impact on the strategic risk that the Council could fail to comply with the law.
Human Rights, Public Sector Equality Duty and Community Cohesion	The proposed policy has been subject to Level 1 (screening) equality impact assessment (at Appendix 2). This assessment identified that no negative differential impacts on diverse groups and communities within Middlesbrough is anticipated from the implementation of the policy.
Climate Change / Environmental	There are no climate or environmental impacts associated with the proposed policy.
Children and Young People Cared for by the Authority and Care Leavers	There are no direct implications arising from this Policy on this group as identified in the equality impact assessment (Appendix 2).

Data Protection	This policy aims to balance the business interests of the Council as an employer and workers' rights and freedoms under data protection law. It is imperative that the Council has an up-to-date policy which advises staff on proper use of these powers to ensure any action is lawful, necessary and proportionate.
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Actions to be taken to implement the recommended decision(s)

Action	Responsible Officer	Deadline
Publication of surveillance policy on the MBC Website and Intranet pages	L Hamer	5 January 2025
Senior Information Risk Owner (SIRO) annual report to Corporate Affairs and Audit Committee	Ann-Marie Johnstone	April 2025

Appendices

1	Surveillance Policy 2024/2025
2	Surveillance Policy 2024/25 – Impact Assessment Level 1: Initial screening Assessment

Background papers

Body	Report title	Date
Executive Member for Finance and Governance	RIPA Policy	28/02/2020
Corporate Affairs and Audit Committee	Annual Report of the Senior Information Risk Owner (SIRO)	29/04/2021
Executive Member for Environment, Finance and Governance	Surveillance Policy	10/08/2022
Corporate Affairs and Audit Committee	Annual Report of the Senior Information Risk Owner (SIRO)	31/03/2022
Corporate Affairs and Audit Committee	Annual Report of the Senior Information Risk Owner (SIRO)	April 2023
Executive Member for Finance and Governance	Surveillance Policy	20 December 2023

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