

## **ANNEX 1**

### **Peak District National Park Authority**

### **Covert Surveillance Policy – Draft Regulation of Investigatory Powers Act 2000 (RIPA)**

## **1. INTRODUCTION**

Although the Authority is not included within the ambit of RIPA, by adopting and adhering to this policy the Authority seeks to ensure that any Directed Surveillance it undertakes is lawful and less vulnerable to challenge under the Human Rights Act 1998.

Accordingly, the Authority has power to conduct Directed Surveillance in accordance with this policy.

## **2. AUTHORISING OFFICERS**

The following officers are the persons designated to authorise Directed Surveillance:

1. The Head of Planning (in respect of planning matters) and the Head of Field Services (in respect of Access matters)
2. In his/her absence, or in cases where the Head of Planning or the Head of Field Services is personally involved in the investigation, the Director of Strategy & Development and the Director of Operations

## **3. DEFINITIONS**

**“Surveillance”** is widely defined as covering monitoring, observing, listening to persons, recording or undertaking any other form of surveillance with the assistance of a device such as a camera or microphone.

**“Covert Surveillance”** is surveillance which is carried out in a manner calculated to ensure persons are unaware it is or may be taking place.

**“Directed Surveillance”**. This is defined as surveillance which is covert but not intrusive, and is undertaken:

- i) for the purposes of a specific investigation/operation
- ii) in such manner as is likely to result in the obtaining of private information about a person, and
- iii) otherwise than by way of an immediate response to events such that it would not be reasonably practicable for authorisation to be sought.

**“Intrusive Surveillance”** is surveillance carried out on any residential premises or in any private vehicle by an individual or a surveillance device on the premises or in the vehicle. The Authority is not authorised to conduct intrusive surveillance and this should not be undertaken under any circumstances.

## **4. SCOPE**

The use of Directed Surveillance is most likely to apply to the following functions of the Authority:

- i) Development control, including minerals, where an enforcement notice has been issued

- ii) Offences relating to listed buildings
- iii) Offences relating to Tree Preservation Orders
- iv) Offences relating to certain provisions of the CROW Act

This list is not exhaustive, and other areas may be affected. If in doubt, please refer to the Head of Law for advice.

CCTV systems are not normally within the scope of RIPA since they are overt and not being used for a "specific operation or investigation". However, there may be instances in which they are used for Directed Surveillance and would therefore come within the ambit of RIPA. In such cases Directed Surveillance authorisations should be obtained in accordance with this Policy.

## **5. AUTHORISATIONS**

### **5.1 Applications**

If an officer intends to conduct any form of Directed Surveillance, he/she should apply to the Authorising Officer for authorisation on Form RIPA 1. The application should include:

- The action to be authorised, including any premises or vehicles involved;
- The identities, where known, of those to be subjected to Directed Surveillance;
- An account of the investigation or operation and its purpose;
- The reasons why the authorisation is necessary in the particular case and the grounds on which authorisation is sought (eg for the purpose of preventing or detecting crime);
- Why the Directed Surveillance is considered to be proportionate to what it seeks to achieve;
- The nature of the proposed surveillance;
- An explanation of the information which it is desired to obtain as a result of the authorisation;
- The details of any potential collateral intrusion and why the intrusion is justified;
- The details of any confidential information that is likely to be obtained as a consequence of the surveillance

The completed form should be sent to the Authorising Officer with a copy to the Monitoring Officer for placing on the central record of authorisations (see paragraph 6 below).

### **5.2 Approvals**

The Authorising Officer should satisfy him/herself that the authorisation is necessary on one of the following grounds:

- For the purposes of preventing and detecting crime or of preventing disorder;
- In the interests of public safety;
- For the purpose of protecting public health;
- For the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department;
- For any other purpose prescribed in an order made by the Secretary of State;

The Authorising Officer should also be satisfied that the surveillance is proportionate to what it seeks to achieve. This involves balancing the intrusiveness of the activity on the

target and others who might be affected by it against the need for the activity in operational terms.

The Authorising Officer should also satisfy him/herself that any “collateral intrusion” (ie interference with the privacy of persons other than the subject of the surveillance) is justified. Measures should be taken, wherever practicable, to avoid or minimise unnecessary intrusion into the lives of others.

Authorisations must be given in writing by the Authorising Officer. In urgent cases, it may be given orally and recorded as soon as reasonably practicable. A case is only regarded as urgent if the time that would elapse before the Authorising Officer was available to grant the authorisation would, in the judgement of the person giving the authorisation, be likely to endanger life or jeopardise the investigation or operation. An authorisation is not to be regarded as urgent where the need for an authorisation has been neglected or the urgency is of the Authorising Officer’s own making.

Ideally, Authorising Officers should not be personally involved in the investigation (although this is sometimes unavoidable). Where the Authorising Officer is so involved, the central record of authorisations (see paragraph 6 below) should highlight this.

A copy of the authorisation should be given to the Monitoring Officer to be placed on the register of authorisations.

### **5.3 Duration**

An authorisation is valid for a period of three months from the date it takes effect. If an urgent oral authorisation has been given, it ceases to have effect after 72 hours unless renewed.

### **5.4 Renewals**

If application is made on Form RIPA 2 before the authorisation would cease to have effect, an authorisation can be extended for a further period of three months (or 72 hours if granted orally in urgent cases), and an authorisation can be renewed more than once.

Applications for the renewal of an authorisation should record:

- The number of times the authorisation has been renewed
- Any significant changes to the information given on the original application
- The reasons why it is necessary to continue with the directed surveillance
- The content and value to the investigation or operation of the information so far obtained by the surveillance
- The results of regular reviews of the investigation or operation.

The renewal should be kept on the central record of authorisations (see paragraph 6 below).

### **5.5 Reviews**

Regular reviews of authorisations (Form RIPA 3) should be undertaken to assess the need for the surveillance to continue. The results of the review should be recorded on the central record of authorisations (see paragraph 6 below). The Authorising Officer should determine how often a review should take place in each case, which should be as frequently as is considered necessary and practicable.

### **5.6 Cancellation**

An authorisation must be formally cancelled by the Authorising Officer if no longer required or if the tests for issue are no longer met (Form RIPA 4).

## **6. CENTRAL RECORD OF AUTHORISATIONS**

The Monitoring Officer will retain and regularly update a central record of all applications, authorisations granted, renewals and cancellations. The records shall be retained for a period of at least three years from the ending of the authorisation and will contain the following information:

- The type of authorisation
- The date the authorisation was given
- Name and job title of Authorising Officer and the unique reference number (URN) of the investigation/operation
- The title of the investigation or operation, including a brief description and names of subjects, if known
- Whether the urgency provisions were used, and if so why
- If the authorisation is renewed, when it was renewed and who authorised the renewal
- Whether the investigation or operation is likely to result in obtaining confidential information
- The date the authorisation was cancelled and the date and time when an instruction is given to those involved to cease surveillance.

The Monitoring Officer should also retain the following documentation:

- A copy of the application and a copy of the authorisation together with any supplementary documentation and notification of the approval given by the Authorising Officer
- A record of the period over which the surveillance has taken place
- The frequency of reviews prescribed by the Authorising Officer
- A record of the result of each review of the authorisation
- Copy of any renewal of an authorisation together with the supporting documentation submitted when the renewal was requested
- The date and time when any instruction was given by the Authorising Officer.

## **7. RETENTION AND DESTRUCTION OF PRODUCT**

Information obtained about individuals must be used, handled and stored in accordance with the Data Protection Act.

Where the product of surveillance could be relevant to pending or future criminal or civil proceedings, it should be retained in accordance with established disclosure requirements for a suitable further period.

## **8. REVIEW OF POLICY**

The effectiveness of the Policy will be monitored, with the Director of Corporate Resources having delegated authority to make procedural changes in light of experience of implementing the Policy, with any significant amendments being brought back to the Authority for approval.