
PPP Approach to CCTV and Surveillance

Committee considering report:	Joint Public Protection Committee
Date of Committee:	13 December 2021
Chair of Committee:	Councillor John Harrison
Date JMB agreed report:	22 November 2021
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Forward Plan Ref:	JPPC4071 and JPPC4072

1. Purpose of the Report

- 1.1 To set out the operational approach taken in respect of overt and covert surveillance conducted as part of day to day operations of the Public Protection Partnership.
- 1.2 To provide some details about the way the Regulation of Investigative Powers Act 2000 (RIPA) and Protection of Freedoms Act 2011 impacts on the work of the Public Protection Partnership (PPP).

2. Recommendations

Members are asked to **NOTE** the content of this for information only item.

3. Implications and Impact Assessment

Implication	Commentary
Financial:	None
Human Resource:	None
Legal:	The PPP approach is designed to fit into the wider requirements of Council policy and the specific requirements of the Regulation of Investigative Powers Act 2000 (RIPA) and the Protection of Freedoms Act 2011.
Risk Management:	The PPP operate a range of quality management documents that are designed to minimise the risks associated with conducting surveillance.
Property:	None
Policy:	Each partner Council has its own RIPA policy, supported by the PPP as and when required.

	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		x		Each policy, procedure and guidance note is designed to ensure that surveillance is conducted appropriately with regards to equality impact i.e. each case on its own merit and appropriate scrutiny about decisions relating to conducting surveillance.
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		x		
Environmental Impact:		x		
Health Impact:		x		
ICT or Digital Services Impact:		x		
PPP Priorities :		x		Surveillance is a key part of the PPP's overall toolkit to achieve its priorities.
Data Impact:		x		Data retention is an important feature of the surveillance process and there are appropriate controls within each policy, procedure and guidance note.
Consultation and Engagement:	Report will be presented to the Joint Public Protection Committee for information			
Other Options Considered:	None			

4. Introduction

- 4.1 Each Council has an individual Scheme of Delegation which identifies who is responsible for the legislative requirements placed upon them.
- 4.2 The PPP has many enforcement and investigative responsibilities and carries them out on behalf of all three partner authorities. They are all linked through the Inter-

Authority Agreement (IAA). Many of these require surveillance of some form, including noise monitoring, CCTV for flytipping, body worn cameras and investigations into on-line criminal activity.

- 4.3 The Regulation of Investigatory Powers Act 2000 (RIPA) was introduced to ensure that surveillance and other intelligence gathering complies with the European Convention on Human Rights ('The Convention'), importantly Article 8 (the right to a private and family life) and Article 6 (the right to a fair trial). Article 8 is a 'qualified right'. RIPA provides a framework by which covert surveillance can be undertaken lawfully, notwithstanding that it breaches Convention rights such as the right to privacy and family life. Where covert surveillance is proportionate and necessary, and is undertaken with the appropriate authorisation, the surveillance will be lawful.
- 4.4 The use of overt public space CCTV is governed by the Protection of Freedoms Act 2011 which requires this to be conducted in line with CCTV policy of the Council.
- 4.5 Where surveillance is undertaken in a lawful manner, the Council will not be liable for damages for interference with an individual's Convention rights. Further, evidence obtained in a manner that is lawful will be admissible in criminal proceedings.
- 4.6 The PPP engages in low levels of the types of activity which are covered by this legislation and where it is, there is liaison with the Councils Senior Responsible Officer to ensure appropriate records are kept, in line with each partner's individual policy.
- 4.7 The Investigatory Powers Commissioner's Office (IPCO) provide independent oversight of the use of investigative powers by intelligence agencies, the police and other public authorities. Monitoring takes place via annual returns and inspections, which take place approximately every three years. The PPP has supported each partner's Legal Services in the preparation and response to IPCO inspections which have taken place over the last few years. Oversight of public space CCTV is the responsibility of the Surveillance Camera Commissioner. All data must be handled in accordance with data protection legislation under the jurisdiction of the Information Commissioner.

5. What Situations Might Require the PPP to Conduct Surveillance?

5.1 Nuisance and Anti-Social Behaviour

When residents make complaints about nuisance (for example about noise, odour, light) it is sometimes necessary for PPP officers to monitor those that are being complained about. In these circumstances the investigating officer will always notify the relevant parties that they will be monitoring. This type of monitoring is considered to be outside the scope of RIPA but officers are encouraged to liaise with the Case Management Unit if they believe there are any risks of capturing personal or sensitive data as a result of their monitoring activity such as where a new noise source is identified but no one is on site to notify. In such circumstances any new monitoring is notified as soon as practically possible.

5.2 Fly Tipping

In locations which are considered to be vulnerable to fly-tipping or 'hotspots' it may be considered necessary to use CCTV. This work follows the Surveillance Camera Code which is issued by the Home Office. Officers will carefully assess the need and when

deployed they will follow a series of policies and checklists and the evidence collected is then considered by the Case Management Unit to determine whether an offence may have been committed under the Environmental Protection Act 1990. In most cases, the area under surveillance will be identified and signs will be put up to notify people of the CCTV and cameras will be deployed in accordance with the CCTV policy drawn up to meet the requirements of the Protection of Freedoms Act 2011.

5.3 Social Media

As has been identified elsewhere on this agenda eCrime is a cross-cutting service priority. Monitoring of any social media activity is a matter that is sometimes necessary for crime detection purposes but has to be handled carefully and in accordance with the law and IPCO guidance. The fact that an individual has 'open' or public settings on a social media account does not mean that they consent to any public authority accessing their data. Investigating officers discuss these risks with their manager and/or the Senior Investigating Officer to evaluate the risks and decide whether they are likely to need to conduct surveillance covered by RIPA.

Officers are aware that they must remain cognoscente of the impacts that their actions can have upon the rights and freedoms of third parties when using social media. Many steps have been taken to train relevant staff and to raise awareness of this issue in order to ensure that if officers access Social Media for work related purposes do so in an appropriate manner. Any specific operations are conducted by specially trained staff. Examples of situations where a social media account may be monitored include illegal sales of waste services, sales of counterfeit or smuggled goods, illegal sales of pets or fraud and unfair trading.

5.4 Use of Body Worn Cameras

Some of areas the work conducted by the PPP requires officers to wear body worn cameras. These include entering premises with or without warrant to search for evidence. The most common type of offence the PPP investigate which requires an entry warrant is unfair trading but others include counterfeiting and environmental protection matters. This work is governed by the requirements of the Police and Criminal Evidence Act 1984 (PACE) and the officer making the application must set out a precise set of information in a court hearing.

In executing a warrant, it is possible that officers may encounter suspects who present a risk to their health and safety and/or witness criminal activity. In these circumstances Body Worn Video (BWV) may be necessary.

Other occasions where body worn cameras may be worn include responding to doorstep crime activity. Again this for evidential and health and safety reasons.

Body worn cameras also protect those under investigation as they provide a contemporaneous record of events.

There is a specific Code of Practice for this type of work (BS 8593:2017) which addresses some of the differences between standard CCTV and the use of BWV and the service has a deployment policy which staff are required to adhere to. Officers will liaise with the Case Management Unit on their approach and engage Legal Services where necessary based on the individual Council surveillance policy.

5.5 Age Restricted Sales

As with the other examples cited, there is a Code of Practice for the regulatory delivery of age restricted products and services. When visiting businesses for proactive compliance the PPP takes account of all the relevant and available information (often referred to as Intelligence) and follows a set procedure and operational guidance to conduct the checks.

These checks include the assistance of young people, under the careful supervision of a PPP officer, for the purposes of observing whether the sale of an age restricted product will be sold to the young person. The implications of this activity is considered on a case by case basis

5.6 Concluding Observations

The use of surveillance can be an important tool in detecting and preventing crime. The Right to Privacy is fundamental Human Right and any infringement of that right has to be done for necessary and proportionate reasons. The default position is to avoid covert surveillance where at all possible. The mechanisms for doing so are set out in the examples above. Signage, prior notice and warning etc. are all part of those protections. Overt surveillance needs to be conducted against the same tests as covert surveillance namely that of necessity and proportionality. The assessment of these are fundamental to the investigating officer knowledge skillset. It is very important that those authorising applications for covert surveillance are trained and receive regular refresher training. Currently this can only be done by the PPP Service Manager or above.

We are satisfied that as a service we have in place the relevant safeguards, knowledge and competence to ensure the balance between individual rights and freedoms and the protection of the community and environment is struck.

6. Appendices

None.

7. Background Papers

None.

Wards affected: All Wards

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