

## MID DEVON DISTRICT COUNCIL

### **POLICY ON THE USE OF COVERT INVESTIGATION TECHNIQUES (Application of the Regulation of Investigative Powers Act (RIPA) 2000)**

#### **1.0 INTRODUCTION**

1.1 The Regulation of Investigatory Powers Act 2000 (hereafter referred to as 'the Act' or 'RIPA') regulates the use of covert investigative techniques by public authorities. It provides for the application for, and granting of, lawful authorisations for those surveillance techniques covered by the Act.

1.2 The European Convention on Human Rights (ECHR) is enshrined in UK law through the Human Rights Act 1998.

Article 8 of the ECHR provides a right to private and family life. This is not an absolute right; it may be infringed in certain circumstances. The RIPA is designed to provide a statutory regulatory framework, which will meet the requirements of the European Convention on Human Rights.

#### **2.0 PURPOSE**

The purpose of this policy is to ensure that the Council complies with the requirements of RIPA (and the overarching human rights and freedoms) - and that appropriate authorisations are given for covert surveillance, the use of covert human intelligence sources and, even rarer still, the acquisition and disclosure of communications data.

#### **3.0 ASSOCIATED DOCUMENTS**

##### **3.1 Background documents**

Report to the Council's Policy and Development Committee –15.02.01

##### **3.2 Statutes and Statutory Instruments**

- (a) Regulation of Investigatory Powers Act 2000
- (b) Human Rights Act 1998
- (c) Police and Criminal Evidence Act 1984
- (d) Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010
- (e) Protection of Freedoms Act 2012
- (f) Investigatory Powers Act 2016
- (g) General Data Protection Regulations (GDPR)
- (h) Data Protection Act 2018

##### **3.3 Guidance**

- (a) Explanatory Notes to RIPA
- (b) Code of Practice for covert surveillance and property interference
- (c) Code of Practice for the use of covert human intelligence sources

All Codes of Practice are currently available on the Home Office Web Site <https://www.gov.uk/government/collections/ripa-codes>

## 4.0 SCOPE

4.1 The Act provides a regime of primary legislation and Codes of Practice, which divide covert investigation techniques into categories distinguished (to an extent) by the degree of intrusion involved. This procedure applies to all investigation and surveillance that require an authorisation under RIPA.

4.2 This policy document relates to the **use of directed surveillance** and **covert human intelligence sources (CHIS)**. It does not cover the acquisition and disclosure of Communications Data (CD) as this engages an entirely separate procedure under The Investigatory Powers Act 2016 (IPA) which governs how law enforcement agencies use the investigatory powers available to them, in relation to the lawful acquisition of CD. Independent Authorisation for the acquisition of CD is through the new Office for Communications Data Authorisations (OCDA). All applications for CD must be made via an Accredited Officer known as a Single Point of Contact (SPoC) who has passed a Home Office approved course. All Councils must use the National Anti-Fraud Network (NAFN) as their SPoC. All applications to access CD will be made through NAFN via their online application service. The introduction of OCDA means the acquisition of CD by Council officers no longer requires judicial approval.

Guidance must be sought from Legal Services before any decision is taken to seek authority for the acquisition of CD.

4.3 This policy does not cover intrusive surveillance, because local authorities are not allowed to do this. Intrusive surveillance is the covert (i.e. secret) surveillance of anything taking place:

- in residential premises or
- a private car and
- involves the presence of an individual on the premises, or in the vehicle, or
- is carried out by means of a surveillance device.

4.3 RIPA sets out the purposes for which directed surveillance and CHIS may be used, and who should authorise the use.

Authorisation under RIPA gives lawful authority for the use of covert methods of obtaining information, provided there is compliance with the statutory requirements and procedures. Obtaining an authorisation will ensure that the action is carried out in accordance with law and subject to stringent safeguards against abuse. It will also make the action less vulnerable to challenge under the Human Rights Act 1998.

4.4 For district councils, RIPA does not allow directed surveillance or CHIS at all, except for the purpose of preventing or detecting crime or preventing disorder. For example, this means that you cannot carry out these covert activities prior to the service of a statutory notice, unless you believe an offence

- may have been committed,
- may be about to be committed, or
- there could be public disorder.

The only option in any other cases will be to carry out overt – open, non-secretive – surveillance.

4.5 Services likely to conduct investigations covered by RIPA are Planning, Environmental Health, Housing and Audit, however, any officer of the Council (if he or she conducts an investigation using methods or techniques covered RIPA) is required to seek the necessary authorisation, provided always that the purpose of the investigation is one which RIPA says can justify covert surveillance – see 4.4 above.

## 5.0 ACTIVITY REQUIRING AUTHORISATION

5.1 The following types of activity will require authorisation:

- directed surveillance
- the conduct and use of a CHIS

5.2 Directed surveillance is, in essence, any activity undertaken covertly for the purpose of a specific investigation, in such a way that is likely to result in obtaining information about a person's private life.

5.3 A covert human intelligence source (CHIS) is effectively, an inside informant or undercover officer, (i.e. someone who develops or maintains their relationship with the surveillance target), having the covert purpose of obtaining or accessing information, for the investigator.

## 6.0 APPLYING FOR AUTHORISATIONS

6.1 Subject to the provisions of paragraphs 6.3 and 8.7 the Directors are Authorising Officers for the Council.

In the absence of an Authorising Officer, applications for authorisation should be submitted to Chief Executive, who also has the delegated authority to issue authorisations in relation to any service of the Council.

Authorising Officers may authorise for any service within the Council.

6.2 Any officer intending to use directed surveillance or a CHIS must apply for authorisation from an Authorising Officer by completing the appropriate application form as set out at **Appendix DS/1 or CHIS/1**.

6.3 Special care needs to be taken with **confidential personal information**. This 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.

Such information, which can include both oral and written communications, is held in confidence if it is held subject to an express or implied undertaking to hold it in confidence or it is subject to a restriction on disclosure or an obligation of confidentiality contained in existing legislation. Examples might include consultations between a health professional and a patient, or information from a patient's medical records. This also includes legally privileged material, journalistic materials and information given to a Member of Parliament.

Owing to the very sensitive nature of this type of information authorisations potentially involving confidential personal information must always be made by the **Chief Executive** or in his/her absence the person who is formally nominated to act on behalf of the Chief Executive.

6.4 When completing the application, always include a full account of the steps to be taken in the investigation, which require authorisation.

## 7.0 GRANTING OF AUTHORISATIONS FOR DIRECTED SURVEILLANCE

7.1 Section 28 of RIPA provides that *'a person shall not grant authorisation for directed surveillance unless he believes that the authorisation is:*

*(a) necessary for the purpose of preventing or detecting crime, or of preventing disorder involving a crime; and*

*the authorised surveillance is proportionate to what is sought to be achieved by it. '*

There is a **crime** threshold to be reached, i.e. the criminal offence:

- is or would be punishable (whether on summary conviction or on indictment) by a maximum term of at least 6 months of imprisonment, or
- it arises from the underage sale of alcohol, tobacco, or nicotine inhaling products.

### Authorising Officer

7.2 The Authorising Officer, in determining whether the surveillance is proportionate, will give particular consideration to any collateral intrusion on, or interference with, the privacy of persons other than the subject(s) of the surveillance.

Such consideration of proportionality must involve:

- **balancing** the size and scope of the proposed activity against the gravity and extent of the perceived crime or harm;
- **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 information sought;
- **evidencing**, as far as reasonably practicable, what other methods had been considered and why they were not implemented, or have been implemented unsuccessfully.

The Home Office Code of Practice on Covert Surveillance and Property Interference has the following to say on the issue of proportionality:

*"4.5 if the activities are deemed necessary on...the statutory grounds, the person granting the authorisation... must also believe that they are proportionate to what is sought to be achieved by carrying them out. This involves balancing the seriousness of the intrusion into the privacy of the subject of the operation (or any other person who may be affected) against the need for the activity in investigative and operational terms.*

*4.6 The authorisation 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.”*

### 7.3 Authorisations must be given in writing.

It is possible that Authorising Officers may face cross-examination in court about the authorisation sometime after it is granted, and memories fade. It is therefore important that a full written record of what they are being asked to authorise, appears on the application form. If in doubt, Authorising Officers should ask for more detail.

### 7.4 Authorising Officers should not be responsible for authorising their own activities.

### 7.5 All RIPA authorisations must be approved by a Magistrate before an authorisation becomes effective and directed surveillance is undertaken, or a CHIS deployed. .

### 7.6 **Duration of Authorisations and Reviews**

An authorisation in writing ceases to have effect at the end of a period of 3 months beginning with the day on which it took effect, e.g. an authorisation starting 1<sup>st</sup> January would come to an end on 31<sup>st</sup> March.

Regular reviews of authorisations should be undertaken. The results of the review should be recorded on **Appendix DS/2** and a copy filed on the central record of authorisations. If the surveillance provides access to confidential information or involves collateral intrusion, more frequent reviews will be required. The authorising officer should determine at the time of giving the initial authorisation, how often a review should take place (and this may also be subsequently reviewed).

### 7.7 **Renewals**

#### 7.7.1 While an authorisation is still in force, the Authorising Officer can renew it if he considers this necessary for the purpose for which the authorisation was originally given. The authorisation will be renewed in writing for a further period, beginning with the day when the authorisation would have expired, but for the renewal, and can be for a period up to 3 months.

#### 7.7.2 Applications requesting renewal of an authorisation are to be made on the appropriate form as set out at **Appendix DS/3** and submitted to the Authorising Officer.

The renewal must be granted before the original authorisation ceases to have effect.

#### 7.7.3 Applications for renewal will record whether it is the first renewal; and if not, every occasion on which the authorisation has previously been renewed. Applications must also detail:

- the significant changes to the information in the initial authorisation
- the reasons why it is necessary to continue with the 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.

7.7.4 When a directed surveillance authorisation requires renewal, the renewal must be approved by a magistrates' court in the same manner as an initial authorisation.

## 7.8 Cancellations

The person who granted or last renewed the authorisation (or other person with Authority under this policy) **MUST** cancel it if he is satisfied that the directed surveillance no longer meets the criteria for authorisation.

Requests for cancellation will be made on the appropriate form as set out at **Appendix DS/4** and submitted to the Authorising Officer for authorisation of the cancellation. All directed surveillance cancellations must include directions for the management and storage of any surveillance product.

## 8.0 GRANTING OF AUTHORISATION FOR THE CONDUCT AND USE OF COVERT HUMAN INTELLIGENCE SOURCES (CHIS)

8.1 The same requirements of necessity and proportionality exist for the granting of these authorisations as with directed surveillance.

8.2 Additionally, the Authorising Officer shall not grant an authorisation unless he /she believes that arrangements exist which satisfy the following requirements:

- there will at all times be an officer with day to day responsibility for dealing with the source and the source's security and welfare
- there will at all times be an officer who will have general oversight of the use made of the source
- there will at all times be an officer with responsibility for maintaining a record of the information supplied by the source
- records which disclose the identity of the source will not be available to persons except to the extent that there is a need for access to them to be made available

8.3 Similarly, before authorising the use or conduct of the source, the Authorising Officer must be satisfied that the conduct/use is proportionate to what the use or conduct of the source seeks to achieve, taking into account the likely degree of intrusion into the privacy of those potentially effected, and for the privacy of persons other than those who are directly the subjects of the operation or investigation.

Measures should be taken, wherever practicable, to avoid unnecessary intrusion into the lives of those not directly connected with the operation.

8.4 Particular care is required where people would expect a high degree of privacy, or where, as a consequence of the authorisation, 'confidential material' is likely to be obtained.

- 8.5 Consideration is also required to be given to any adverse impact on community confidence that may result from the use or conduct of a source or information, obtained from that source.
- 8.6 Additionally, the Authorising Officer should make an assessment of any risk to a source, in carrying out the conduct in the proposed authorisation.
- 8.7 Authorisation for the use of a CHIS must be given in writing.

Only the Chief Executive (or in his/her absence the person who is formally nominated to act as the Chief Executive) may authorise the use of a juvenile or vulnerable CHIS.

- 8.8 Ideally, the Authorising Officers should not be responsible for authorising their own activities e.g. those in which they themselves are to act as a source, or in tasking a source. However, it is recognised that this will not always be possible, especially in the case of small departments. Authorisations must be approved by a Magistrate (see paragraph 7.5).

The Solicitor employed by the Council will arrange the appointment before the Magistrate(s) and explain the procedure to the Authorising Officer. The Solicitor employed by the Council and the Authorising Officer will be required to attend before the Magistrate(s) to seek the Magistrate's approval to the authorisation.

- 8.9 An application for authorisation for the use or conduct of a CHIS will be made on the appropriate form, as set out at **Appendix CHIS/1** and must record:

- Details of the purpose for which the source will be tasked, or deployed.
- The reasons why the authorisation is necessary in the particular case and the grounds on which authorisation is sought (e.g. for the purpose of preventing or detecting crime or disorder).
- Where a specific investigation or operation is involved, details of that investigation or operation.
- Details of what the source would be tasked to do.
- Details of potential collateral intrusion and why the intrusion is justified.
- Details of any confidential material that might be obtained as a consequence of the authorisation.
- The reasons why the authorisation is considered proportionate to what it seeks to achieve.
- The level of authorisation required.
- A subsequent record of whether authorisation was given or refused by whom and the time and date.

#### 8.10 **Duration of Authorisations**

A written authorisation, unless renewed, will cease to have effect at the end of a period of twelve months beginning with the day on which it took effect except in the case of a juvenile CHIS which has a duration of 4 months . Oral authorisations will, unless renewed, last 72 hours.

#### 8.11 Renewals

As with authorisations for directed surveillance, authorisations for the conduct and use of CHIS can be renewed, the same criteria applying. However before an Authorising Officer renews an authorisation, he must be satisfied that a review has been carried out of the use of a CHIS and that the results of the review have been considered.

Applications for renewal must be made on the appropriate form as set out at **Appendix CHIS/3** and submitted to the Authorising Officer. However, an application for renewal should not be made until shortly before the authorisation period is coming to an end.

8.12 An authorisation may be renewed more than once – provided it continues to meet the criteria for authorisation.

8.13 When CHIS authorisation requires renewal, the renewal must be approved by a magistrates' court in the same manner as an initial authorisation

#### 8.13 Reviews

Regular reviews of authorisations should be undertaken. The results of the review should be recorded on **Appendix CHIS/2** and a copy filed on the central record of authorisations.

If the surveillance provides access to confidential information, or involves collateral intrusion, frequent reviews will be required. The Authorising Officer should determine how often a review should take place.

8.14 Before an Authorising Officer renews an authorisation he must be satisfied that a review has been carried out of:

- The use made of the source during the period authorised
- The tasks given to the source
- The information obtained from the use or conduct of the source

8.15 If the Authorising Officer is satisfied that the criteria necessary for the initial authorisation continue to be met, he may renew it in writing as required.

When CHIS authorisation requires renewal, the renewal must be approved by a magistrates' court in the same manner as an initial authorisation

#### 8.16 Cancellations

The officer who granted or renewed the authorisation **MUST** cancel it if he/she is satisfied that

- the use or conduct of the source no longer satisfies the criteria for authorisation, or



- that the arrangements for the source's case no longer exist

8.17 Requests for cancellation will be made on the appropriate form, as set out at **Appendix CHIS/4** and submitted to the Authorising Officer for authorisation of the cancellation.

All CHIS cancellations must include directions for the management and storage of any surveillance product.

#### 8.18 **Management Responsibility**

The day to day contact between the Council and the source is to be conducted by the handler, who will usually be an officer below the rank of the Authorising Officer.

No vulnerable person or young person under the age of 18 should be used as a source.

#### 8.19 **Security and Welfare**

Account must be taken of the security and welfare of the source. The Authorising Officer, prior to granting authorisation, should ensure that an assessment is carried out to determine the risk to the source of any task and the likely consequences should the target know the role of the CHIS.

#### 8.20 **Confidential Material**

Where the likely consequence of the directed surveillance or conduct of a source would be for any person to acquire knowledge of confidential material, the deployment of a source should be subject to special authorisation. In these cases, the proposed course of conduct must be referred to the Head of Paid Service or (in his absence) a Director for a decision as to whether authorisation may be granted.

#### 8.21 **Monitoring of personal information online**

The study of an individual's on-line presence may engage privacy considerations requiring RIPA authorisation. The attached annex gives guidance on the monitoring of information online, such as social media.

### 9.0 **MAINTENANCE OF RECORDS**

9.1 Each Service shall keep in a dedicated place

- a record of all authorisations sought
- a record of authorisations granted and refused
- applications for the granting, renewal and cancellation of authorisations

9.2 The records will be confidential and will be retained for a period of 3 years from the ending of the authorisation.

9.3 Each Authorising Officer shall send original copies of all applications/authorisations, reviews, renewals and cancellations to the RIPA Co-ordinating Officer, who will maintain a central record of all authorisations. The report will include details of the level of compliance with the requirements for authorisation.

9.4 Authorising Officers will ensure compliance with the appropriate data protection requirements and any relevant codes of practice produced by individual authorities in the handling and storage of material.

9.5 Where material is obtained by surveillance which is:

- wholly unrelated to a criminal or other investigation, or
- to the person subject of the surveillance, and
- there is no reason to believe it will be relevant to future civil or criminal proceeding

it should be destroyed immediately. The decision to retain or destroy material will be taken by the relevant Authorising Officer.

## 10.0 **AWARENESS OF THE CONTENTS OF THE ACT AND TRAINING**

It shall be the responsibility of each Service Manager, or an Authorised Officer for that service, to ensure that all staff involved or likely to be involved in investigations, are adequately trained so as to be aware of the requirements and implications of the Act.

It shall be the responsibility of the Senior Responsible Officer with the assistance of the RIPA Co-ordinating Officer to ensure that all relevant officers have received appropriate training and are aware of the requirements and implications of the Act.

## 11.0 **SENIOR RESPONSIBLE OFFICER AND RIPA CO-ORDINATING OFFICER**

The Monitoring Officer is the Senior Responsible Officer for the Council whose role is:

- (i) to be responsible for RIPA training throughout the Council;
- (ii) to ensure that all Authorising Officers are of an appropriate standard; and
- (iii) to be responsible for raising RIPA awareness throughout the Council.

The Senior Responsible Officer will nominate a suitable officer employed by the Council as the RIPA Co-ordinating Officer, whose role is:

- (i) to collate all original applications and authorisations, reviews, renewals and cancellations;
- (ii) to keep the Central Record of Authorisations; and
- (iii) to notify the Leader of the Council of the receipt of authorisations from Authorising Officers.

## 12.0 **MEMBER INVOLVEMENT**

Cabinet will consider reports from the IPCO. The Cabinet should also consider reports on the use of the powers under the Act on a regular basis, which shall be at least every year, to ensure that it is being used consistently with this policy. Members of the Council will not however be involved in making decisions on specific authorisations.

### Inventory of Surveillance Equipment held by MDCC

None as at 1 December 2020

### Standard Operating Procedure for use of Surveillance Equipment

The Equipment should be stored, when not in use, in a locked cabinet under the control of the Senior Responsible Officer.

Any Officer of the Council considering using the Equipment for covert surveillance in a public place must make a written request to the Senior Responsible Officer or the RIPA Co-Ordinating Officer, who will consider and decide whether the proposed use of the Equipment is appropriate, bearing in mind the provisions of RIPA and the associated codes of practice.

Any Officer who uses the Equipment to record digital images may only view such images once captured, and shall not download them on to a computer or other electronic storage facility unless this is first agreed by the Senior Responsible Officer and/or the RIPA Co-ordinating Officer.

**Mid Devon District Council**

**Annex 1 to the Council's RIPA Policy**

**Open Source Internet Research (OSIR) and RIPA**

**Background**

The internet enables access to a vast amount of information which can be useful to the Council in carrying out its statutory functions as well as engaging with the public.

Open Source Internet Research (OSIR) is the name given to viewing, collecting processing, and analysing publicly available personal information stored on the internet, including on Social Media. Social Media in this Annex means social networking websites such as Twitter, Facebook, YouTube, online communities, and blogs.

This Annex to the Council's RIPA Policy covers the use of OSIR in investigations. Advice should be taken from HR should an investigation involve a member of staff. Where officers are carrying out OSIR they must be aware of the Council's RIPA Policy and the information contained in this annex.

Using OSIR raises the issue of whether RIPA authorisation must be obtained. This policy indicates when RIPA authorisation should be obtained.

If RIPA authorisation is required the Council's RIPA policy must be complied with.

**1.0. Open Source Internet Research (OSIR)**

- 1.1 OSIR is the collection, evaluation and analysis of materials from sources available to the public, whether on payment or otherwise, to use as intelligence or evidence, within investigations.
- 1.2. OSIR is a powerful tool against crime. MDDC needs to ensure that any collection of information from the internet for an enforcement purpose is conducted in such a way that the integrity of any evidence gained is maintained.
- 1.3. MDDC staff must consider whether their evidence or intelligence gathering is likely to interfere with a person's right to respect for their family life (Human Rights Act 1998 - Article 8) and, if so obtain appropriate authorisation under the RIPA for their research. Where RIPA does not apply, a privacy impact statement may still be required.

**2. General principles**

- 2.1. Online communication via the internet has become the preferred method of communication between individuals, within social groups or indeed with anyone in the world with internet access.
- 2.2. Such communication may involve web sites, social networks (e.g. Facebook), chat rooms, information networks (e.g. twitter) and/or web based electronic mail.
- 2.3. Just because other people may also be able to see it, does not necessarily mean that a person has no expectation of privacy in relation to information posted on the

internet. Think of it as similar to a private conversation between diners in a restaurant – you would not expect other diners to listen too closely or to make recordings.

- 2.4. Online research and investigative techniques capable of interfering with a person's Article 8 rights should be used only when necessary and proportionate.

### 3.0 Categories of OSIR

This Annex focuses on four broad categories of OSIR, to give an indication when RIPA authorisation is required.

#### Category 1

Category 1 is viewing publicly available postings, or websites where the person viewing does not have to

- register a profile,
- answer a question, or
- enter correspondence

in order to view the posts, e.g. a trader's website.

There must be a low expectation of privacy and no RIPA authorisation would normally be required to view or record these pages. However, repeated visits over time, which amount to monitoring an individual's on-line presence, will require RIPA authorisation.

How a person runs his/her business can be private information even if they do so in the public domain.

No monitoring of a person's online presence can take place without RIPA authorisation. The exception to this is where prior notification is given to the person that the Council is monitoring that person's online presence; this would then be overt monitoring and would not require RIPA authorisation.

All visits to such websites for the purposes of any investigations must be recorded and be available for inspection by the Senior Responsible Officer and/or the Co-ordinating Officer - see Part 12 of the RIPA Policy for more details about these roles.

Guidance approved by the Senior Responsible Officer on record keeping of viewings will be distributed by the Co-ordinating Officer and must be adhered to.

Using test purchases in an investigation does not necessarily trigger the need for RIPA authorisation but in each case advice must be sought beforehand from the Co-ordinating Officer

## Category 2

Category 2 is viewing postings on social networks where the viewer has to register a profile, but there is not otherwise a restriction on access. This would include Facebook where there is no need to be accepted as a “friend” to view. E.g. a trader has a “shop window” on Facebook advertising business and products

There are differences between this and Category 1.

The person who posts information or runs such a website may reasonably expect viewers to work within the terms and conditions of the website. Viewings using a fictitious identity, or a “covert account” require RIPA authorisation. No such viewings may take place without RIPA authorisation. Viewing conducted in an overt manner do not require RIPA authorisation.

Viewings can be conducted in an overt manner via an account profile which uses the officer’s correct name and email address (which should be a middevon.gov.uk).

All viewings for investigations, regardless of whether RIPA authorised or not, will need to be recorded and available for inspection by the Senior Responsible Officer and/or the Co-ordinating Officer.

Guidance approved by the Senior Responsible Officer on record keeping of viewings will be distributed by the Co-ordinating Officer and must be adhered to.

## Category 3

Category 3 is viewing postings on social networks which require a “friend” or similar status to view.

Viewings using a covert account or fictitious identity will require RIPA authorisation. No such viewings may take place without RIPA authorisation.

Viewing conducted by using the officer’s correct name and email address (which should be a middevon.gov.uk) to acquire “friend status” may still require a RIPA authorisation.

Officers will need to be sure that their access is being granted as a representative of the Council.

If officers are not sure that access is being granted to the officer as a representative of the Council, then RIPA authorisation **must** be obtained before such viewings take place.

All viewings for investigations, regardless of whether RIPA authorised or not, will need to be recorded and available for inspection by the Senior Responsible Officer and/or the Co-ordinating Officer.

Guidance approved by the Senior Responsible Officer on record keeping of viewings will be distributed by the Co-ordinating Officer and must be adhered to.

## **Category 4**

Category 4 is the use of sophisticated OSIR tools and techniques including active search, reverse engineering and/or tools or filters, etc., to obtain information on an individual on the wider web. The use of such tools is likely to involve monitoring an individual and RIPA authorisation **must** be obtained before use

### **Covert Facebook accounts and similar covert social media accounts**

Use of such covert accounts requires RIPA authorisation. Even with RIPA authorisation, use of such covert accounts may be judged to be unlawful because the companies' terms and conditions do not allow such covert accounts.

RIPA authorisation is not in itself sufficient to legally permit breaching a company's terms and conditions. Advice must be sought from the Co-ordinating Officer.

### **Procedures/instructions**

Senior managers may issue instructions and procedure notes to provide further safeguards in using OSIR