

RIPA & IPA UPDATE

Policy & Resources Scrutiny Panel 2024



What?



Regulation of Investigatory
Powers Act 2000



Investigatory Powers
Act 2016

- Very sensitive (but useful) powers available for Investigations
- Last resort use for significant cases

Year	Number of Times
2023/24	1
2022/23	1
2021/22	0
2020/21	1
2019/20	2
2018/19	3

Why?



Regulation of Investigatory
Powers Act 2000



Investigatory Powers
Act 2016

- Good practice to have regular awareness
- Major Restructure – need new role holders
- Process update (NAFN)
- Joint working with DWP

- Policy Update – Executive July 2024
- Member annual report – A&G July 2024
- Inspection due February 2025?

Inspection – IPCO Report March 2024



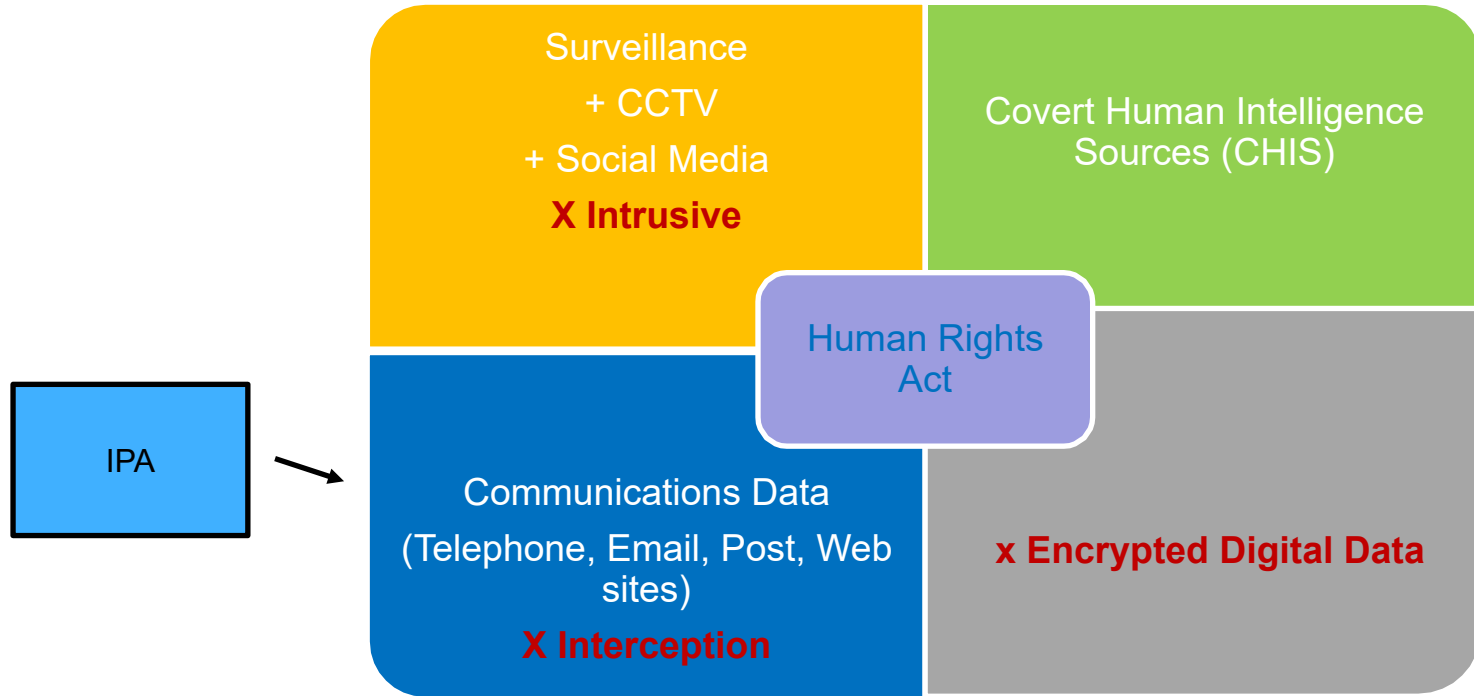
Annual Report of the
Investigatory Powers Commissioner
2022

In 2022, we identified some good practices by a number of Councils. Examples include:

- Fareham Borough Council had used its powers and demonstrated good levels of compliance, maintaining the finding from 2018 that its standards were “an example to all”*

FAREHAM
BOROUGH COUNCIL

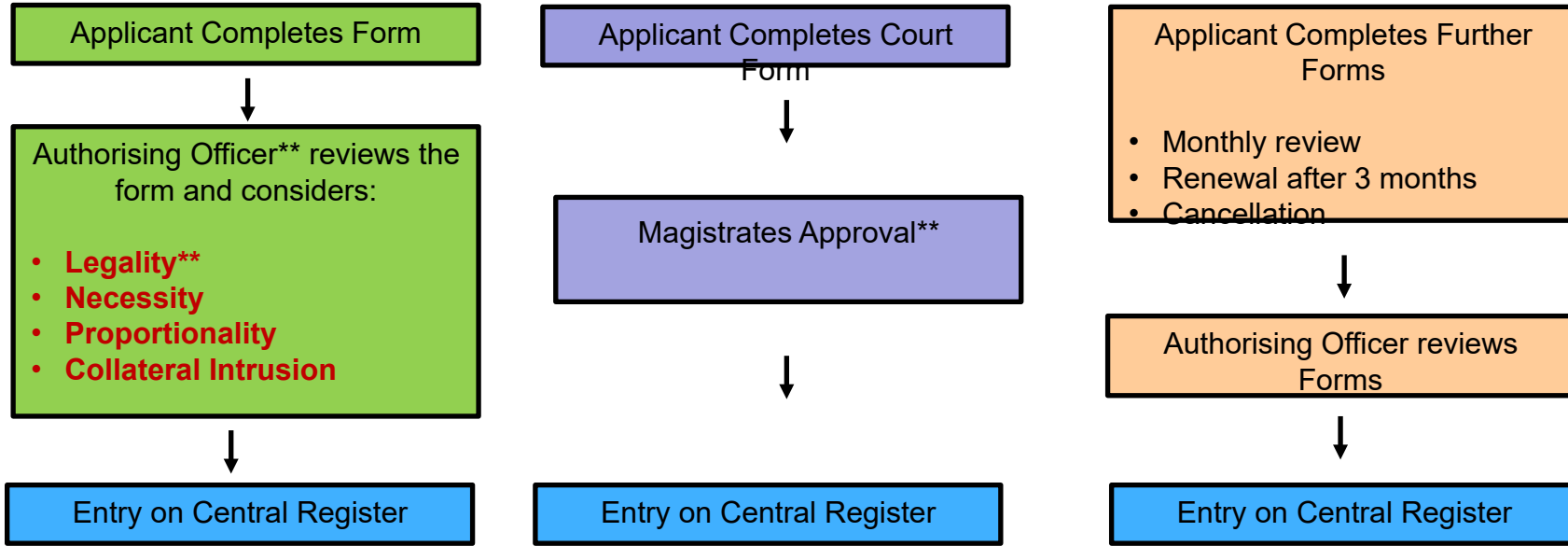
What Powers are we talking about?



What Investigations are we talking about (RIPA)?

- ✓ Council Tax Support
- ✓ Benefits (with DWP)
- ✓ Housing fraud
- ✓ Fly Tipping
- ✓ Trading standards
- ✓ CORE Functions not general i.e. services
- ✓ COVERT not overt
- ✓ PURPOSE – prevention/detection of crime
– max sentence of at least 6 months
(seriousness threshold)
- ✓ PLANNED - Not an immediate response
- ✓ DIRECTED on a target, more than once

What's the Basic Process (RIPA)?



Investigations – Examples

Benefits – Noting who comes and goes at someone's house

✓ Allowable with RIPA
Authorisation



Fly Tipping - Tracking Device on Offender's van

X not allowed as Intrusive



Environmental Health - Noise Monitoring

X not RIPA as Overt



Housing - following tenant's postings on Facebook

✓ Allowable with RIPA
Authorisation



What about Investigation of Employees?

FAREHAM

BOROUGH COUNCIL

DIRECTED MONITORING OF EMPLOYEES PROCEDURE NOTE

1. General Principles



Before any directed monitoring of individual employees is undertaken the prescribed Impact Assessment Form should be completed and signed by a personnel officer PLUS an appropriate member of CXMT.

DIRECTED MONITORING SHOULD ONLY BE USED WHEN THERE ARE GOOD GROUNDS TO SUSPECT CRIMINAL ACTIVITY OR EQUIVALENT SIGNIFICANT MALPRACTICE AGAINST THE COUNCIL AS AN EMPLOYER.

DIRECTED MONITORING CAN NOT BE USED FOR FISHING EXERCISES AGAINST INDIVIDUALS.

- x Seen as a GENERAL function not a core function – so not governed by RIPA
- ✓ Recommended same principles followed if monitoring: a) Covert, b) planned, directed
- ✓ FBC Directed monitoring of employees Procedure (and form)
- ✓ Impact assessment form signed by: a) applicant b) HR c) member of SLT

IPA 2016 and Communications Data 1

Powers Available:

- ✓ Entity Data (Subscriber)
WHO
- ✓ Event Data (Service Use) –
WHEN, HOW
- ✓ Event Data (Traffic) -
WHERE
- x Content (interception)

Process:

- ✓ No Judicial Approval
- ✓ Must request from NAFN
- ✓ Approved Rank (service manager made aware)
- ✓ NAFN SPOC review
- ✓ NAFN forward to OCDA (Office of Communications Data Authorisation)

IPA 2016 and Communications Data 2



Seriousness Threshold:

- ✓ Only applies to Events data
- X Offence max sentence of 12 months
- OR – offence by a corporate body
- OR - results in substantial gain
- OR – communciation offence
- OR - Breach of a persons privacy

Proposed Policy Changes

PROPOSED ROLES

**High level Authoriser /
Designated Senior Officer**

CX
ACX

**Senior Responsible
Officer (RIPA & IPA)**

Assistant Director
(Finance and ICT)

**Authorising Officers /
Approved Rank**

Financial Planning & Audit
Manager
Head of Housing
Revs and Bens Manager
Neighbourhood Manager
AD / ACX / CX

RIPA Co-Ordinator
Audit Manager

Reviewing
authoriser
comments

Applicants
Investigations Officer
(Main)
Senior Audit and Fraud
Analyst
Audit Manager

No Environmental
Health,
Community
Safety, Building
Control, Planning
enforcement

Other Changes

- High level authorisers – guidance strengthened:
 - Surveillance confidential material - *matters subject to legal privilege, confidential personal information, confidential journalistic material and communications between an MP and a constituent.*
 - CHIS – *use of vulnerable individuals and juvenile sources*

Other Changes

- Social Media:
 - guidance strengthened with examples
 - *Explicit rule – do not use personal social network logons.*

Other Changes

- Communications Data:
 - Serious crime threshold for Event and Entity Data
 - Clarification of role of OCDA, NAFN and IPCO Judicial Commissioner (journalistic sources)
 - Use of new terminology – Approved Rank (authorising officer)

Any Questions?

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