



**North Tyneside Council**

# Regulation and Review Committee

Wednesday, 11 October 2023

**Thursday, 19 October 2023** 0.01 Chamber – Quadrant, The Silverlink North,  
Cobalt Business Park, North Tyneside, NE27 0BY commencing at 6.00 pm.

<b>Agenda Item</b>	<b>Page</b>
<b>1. Apologies for Absence</b>	
To receive apologies for absence from the meeting.	
<b>2. Appointment of Substitute Members</b>	
To be notified of the appointment of any Substitute Members.	
<b>3. To receive any Declarations of Interest and Notification of any Dispensations Granted</b>	
You are invited to declare any registerable and/or non- registerable interests in matters appearing on the agenda, and the nature of that interest.	
You are also invited to disclose any dispensation in relation to any registerable and/or non-registerable interests that have been granted to you in respect of any matters appearing on the agenda.	

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Please complete the Declarations of Interests card available at the meeting and return in to the Democratic Services Officer before leaving the meeting.

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|-----------|---|--------------------|
| <b>4.</b> | <b>Minutes</b>  | <b>5 - 36</b>      |
|           | <p>To agree the minutes of the meeting held on 24 February 2022 and to note the minutes of the Panel meetings held on 10 February 2022, 24 March 2022, 21 April 2022, 22 June 2022, 6 October 2022, 12 January 2023, 9 February 2023, 30 March 2023, 20 April 2023, 27 July 2023 and 14 September 2023.</p> |                    |
| <b>5.</b> | <b>Annual Review of Council Policy on Covert Surveillance</b>   | <b>37 - 58</b>     |
| <b>6.</b> | <b>Annual Corporate Complaints Report 2022/23</b>   | <b>59 -<br/>66</b> |
- Circulation overleaf ...

## **Members of the Regulation and Review Committee**

Councillor Lewis Bartoli

Councillor Eddie Darke

Councillor John Hunter

Councillor Tommy Mulvenna (Deputy  
Chair)

Councillor Jane Shaw

Councillor Matthew Thirlaway

Councillor Naomi Craven

Councillor Davey Drummond (Chair)

Councillor Val Jamieson

Councillor John O'Shea

Councillor Andrew Spowart

Councillor Judith Wallace

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## Regulation and Review Committee

**Thursday, 24 February 2022**

Present: Councillor T Mulvenna (Chair)  
Councillors L Bartoli, T Brady, B Burdis, J Cruddas,  
C Davis, John Hunter, G Madden, M Madden, J O'Shea,  
P Oliver and J Wallace

Apologies: Councillors S Brockbank, D Cox, J Mole and A Percy

### **RQ18/22 Appointment of Substitute Members**

There were no substitute members reported.

### **RQ19/22 To receive any Declarations of Interest and Notification of any Dispensations Granted**

Cllr Brian Burdis declared a non-registerable personal interest in Item 5 Review of the North Tyneside Hackney Carriage and Private Hire Licensing Policy, as one of his family members was a private hire driver.

### **RQ20/22 Minutes**

**RESOLVED** that the minutes of the meeting held on 21 October 2021 be confirmed and the minutes of the Panel meetings held on 3 June 2021, 2 December 2021, 13 January 2022 and 17 January 2022 be noted.

### **RQ21/22 Review of the North Tyneside Hackney Carriage and Private Hire Policy**

The Committee received a report which set out the details of a consultation exercise which was underway in relation to a review of the North Tyneside Hackney Carriage and Private Hire Licensing Policy (the Policy).

The North Tyneside Transport Strategy, approved by Cabinet in May 2017, committed to managing North Tyneside's transport network effectively, considering all forms of travel including hackney carriage and private hire vehicles and set out that the Authority supports safeguarding of vulnerable people, for example through hackney carriage and private hire licensing policies and the design of infrastructure.

In July 2020 the Department for Transport (DfT) produced Statutory Taxi and Private Hire Vehicle Standards (the Standards) under the Police and Crime Act 2017 which the department expected to be implemented by all licensing authorities. This formed part of the review of the Policy.

An officer working group was set up to commence the review of the Policy and make the required amendments to bring the Policy up-to-date.

A revised draft Policy for consultation was appended to the report.

The key amendments proposed to the Policy included:

- Introduction of Basic Disclosure and Barring Service (DBS) criminal record check for vehicle proprietors
- Requirement of operators to maintain a register of booking staff and confirmation they have had sight of a Basic DBS certificate for such staff
- Periods for individuals to be free of convictions to be able to hold a licence has changed in line with the Standards
- New Passenger Guidance Document
- The Authority making a referral to the DBS and the police following refusal/revocation of a driver's licence where appropriate.

A summary of the amendments proposed was amended to the report.

At its meeting on 24 January 2022 Cabinet approved the commencement of a public consultation in relation to the proposed changes to the Policy. The engagement process would take place over a period of 6 weeks, ending on 8<sup>th</sup> April 2022 and would include appropriate engagement through the Engagement Hub with residents and businesses including representatives of the hackney carriage and private hire trade and all Elected Members. The consultation exercise also provided the opportunity to raise additional issues for consideration as part of the Policy review.

Members of the Regulation and Review Committee were asked to make their comments known on the revised Policy either by completing the online response form, available on the Council's website or by submitting a response to the Chair of Regulation and Review Committee.

At the conclusion of the engagement period the draft Policy would be presented to Cabinet for consideration.

Members discussed the vehicle age requirements in the Policy and asked whether this was something set by government or agreed locally. It was explained that the changes relating to the age of vehicles was brought in when the Policy was last reviewed in February 2020 and that this was based on the regional view at the time.

A member of the Committee asked if training on safeguarding and child sexual exploitation remained a compulsory requirement for hackney carriage and private hire drivers. It was confirmed that the requirements in relation to this training remained unchanged in the Policy.

It was **agreed** to 1) note the report; and 2) for members of the Committee to submit any views on the proposed changes to the Policy, or any additional areas for consideration, via the online consultation form or via the Chair of Regulation and Review Committee.

## Regulation and Review Committee (Panel)

Thursday, 10 February 2022

Present:

Councillors L Bartoli, T Brady, J Cruddas and J O'Shea

### **RQ23/22 To Receive any Declarations of Interest and Notification of any Dispensations Granted**

There were no declarations of interest or dispensations reported.

### **RQ24/22 Exclusion Resolution**

**Resolved** that under Section 100A(4) of the Local Government Act 1972 (as amended) and having applied a public interest with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

### **RQ25/22 Private Hire Driver's Licence Appeal - Mr S**

The Committee received a report which outlined the background to an appeal by Mr S following the immediate revocation of his Private Hire Drivers Licence. The case had previously been deferred by the Committee in December 2021 (RQ15/21).

Mr S was in attendance at the meeting. Mr S's representative was unable to attend and submitted a letter to the Committee asking for a further deferment of the case to allow for further information.

It was **agreed** to defer the case to a future meeting.

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## Regulation and Review Committee (Panel)

Thursday, 24 March 2022

Present: Councillor T Mulvenna (Chair)  
Councillors John Hunter, J Mole and J O'Shea

### **RQ26/22 To Receive any Declarations of Interest and Notification of any Dispensations Granted**

There were no declarations of interests or dispensations reported.

### **RQ27/22 Exclusion Resolution**

**Resolved** that under Section 100A(4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

### **RQ28/22 Private Hire Driver's Licence Appeal - Mr M**

The Committee received a report in relation to an appeal against an applicant, Mr M, who had been refused a Private Hire Drivers Licence.

Mr M did not attend the meeting. As Mr M had not indicated that he would not attend, the Committee agreed to defer the case until a future meeting to allow Mr M the opportunity to address the Committee in person.

It was **agreed** to defer the case to a future meeting.

### **RQ29/22 Private Hire Driver's Licence Appeal - Mr A**

The Committee received a report in relation a driver, Mr A, who had his renewal application for a Private Hire Driver's Licence refused as the Licensing Officer was not satisfied he remained a fit and proper person.

Mr A attended the meeting, along with his wife and his representative, Mr W.

A Licensing Officer presented the report to the Committee which included relevant information from the Hackney Carriage and Private Hire Licensing Policy.

Members and Mr W asked questions of the Licensing Officer.

Mr W then addressed the Committee on Mr A's behalf and answered questions from Members.

Following a summing up from the Licensing Officer and Mr W, all parties left the meeting to enable consideration of the matter to be undertaken in private.

The options available to the Committee were:

- Uphold the appeal and agree to the grant of the licence
- Dismiss the appeal and refuse the grant of the licence

It was **agreed** that the appeal be upheld and the renewal of Mr A's licence be granted.

## Regulation and Review Committee (Panel)

Thursday, 21 April 2022

Present: Councillor T Mulvenna (Chair)  
Councillors John Hunter, J Mole and J O'Shea

### **RQ30/22 To Receive any Declarations of Interest and Notification of any Dispensations Granted**

There were no declarations of interest or dispensations reported.

### **RQ31/22 Exclusion Resolution**

**Resolved** that under Section 100A(4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

### **RQ32/22 Private Hire Driver's Licence Appeal - Mr M**

The Committee received a report in relation to an appeal from an applicant, Mr M, who had been refused a Private Hire Drivers Licence as the Licensing Authority was not satisfied he was a fit and proper person.

Mr M was in attendance at the meeting.

A Licensing Officer presented the report to the Committee which included relevant information from the Hackney Carriage and Private Hire Licensing Policy.

Members and Mr M had the opportunity to ask questions of the Licensing Officer.

Mr M then addressed the Committee and answered questions from Members.

Following a summing up from the Licensing Officer and Mr M, all parties left the meeting to enable consideration of the matter to be undertaken in private.

The options available to the Committee were:

- To uphold the appeal and grant the licence
- To dismiss the appeal and refuse the licence

It was **agreed** that Mr M's appeal be dismissed and the decision of the Licensing Authority to refuse the granting of a licence be confirmed.

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## **Regulation and Review Committee (Panel)**

**Wednesday, 22 June 2022**

Present: Councillor T Mulvenna (Chair)  
Councillors C Davis, J O'Shea and Westwater

Apologies: There were no apologies recorded.

### **RQ1/22 To Receive any Declarations of Interest and Notification of any Dispensations Granted**

Councillor T Mulvenna declared a personal interest in Item 4 as he is a UNISON member.  
Councillor C Davis declared a personal interest in Item 4 as she is a UNISON member.  
Councillor J O'Shea declared a personal interest in Item 4 as he is a UNISON member.

### **RQ2/22 Exclusion Resolution**

**Resolved** that under Section 100A(4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

### **RQ3/22 Appeal against dismissal - Ms G**

The Committee considered an appeal lodged by Ms G against the decision of the Disciplinary meeting that took place on 4 May 2022.

Ms G was in attendance at the meeting accompanied by her Union representative.

The Chair of the Disciplinary meeting set out the background to the case and the reasons for the decision to terminate Ms G's contract of employment with the Council. The Disciplinary Chair was accompanied and supported by an HR Business Partner.

Members of the Committee were then given an opportunity to ask questions of the Chair of the Disciplinary meeting and the HR Business Partner.

The Committee then heard the case from Ms G and her Union representative.

Members of the Committee were then given an opportunity to ask questions of Ms G and her Union representative.

Both parties were given the opportunity to sum up their case and then withdrew from the

meeting to allow the Committee to make a decision.

The Democratic Services Officer, Legal Advisor and Human Resources Advisor (to the Panel) stayed to provide guidance and advice.

**RESOLVED:** that the appeal against the decision of the Disciplinary meeting on the 4 May 2022 to terminate Ms G's employment with the Council be dismissed.

## **Regulation and Review Committee (Panel)**

**Thursday, 6 October 2022**

Present: Councillor T Mulvenna (Chair)  
Councillors John Hunter, L Marshall, J O'Shea and  
G Westwater

### **RQ4/20 To Receive any Declarations of Interest and Notification of any Dispensations Granted**

There were no declarations of interest reported.

### **RQ5/20 Exclusion Resolution**

**RESOLVED** that under Section 100A(4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

### **RQ6/20 Private Hire Driver's Licence Disciplinary Referral - Mr H**

The Committee considered a report from the Head of Public Protection which outlined the background to a referral relating to the holder of a Private Hire Vehicle Licence, Mr H.

The Committee was requested to determine whether any disciplinary action was required and to assess Mr H's continued suitability to carry out the duties of a licensed driver.

A Licensing Officer and Mr H attended the meeting.

The Licensing Officer presented the report and answered questions from members of the Committee.

Mr H was given the opportunity to ask questions of the Licensing Officer.

Mr H then addressed the Committee.

Members of the Committee then asked questions of Mr H and sought clarification on a number of matters.

Following a summing up from the Licensing Officer and Mr H, both parties left the meeting room to allow consideration of the matter to be undertaken in private.

The options available to the Committee were:

- take no action;
- issue a warning as to the driver's future conduct;

- suspend the driver's licence; or
- revoke the driver's licence

The Committee considered that it was an established principle that a licence was a privilege and not a right and considered all the options available to it.

In determining its response the Committee took into account all that had been presented and contained within the papers submitted to the meeting and had regard to Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Hackney Carriage and Private Hire Licensing Policy, in particular chapter 7 which makes reference to convictions, cautions, conduct and medical fitness.

**RESOLVED** that Mr H's private hire driver's licence be revoked as the Committee was no longer satisfied that he was a fit and proper person to hold a licence from this Authority.



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## Regulation and Review Committee (Panel)

Thursday, 12 January 2023

Present: Councillor T Mulvenna (Chair)  
Councillors L Bones, P Earley and J O'Shea

### **RQ7/23 To Receive any Declarations of Interest and Notification of any Dispensations Granted**

There were no declarations of interest or dispensations reported.

### **RQ8/23 Exclusion Resolution**

**RESOLVED** that under Section 100A(4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following items of business on the grounds that involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

### **RQ9/23 Private Hire Driver's Licence Disciplinary Referral - Mr R**

The Committee received a report from the Head of Public Protection which outlined the background to a referral relating to the holder of a Private Hire Vehicle Licence, Mr R.

The Committee was requested to determine whether any disciplinary action was required and to assess Mr R's suitability to carry out the duties of a licensed driver.

A Licensing Officer and Mr R attended the meeting, along with Mr R's representative.

The Licensing Officer presented the report and answered questions from the Committee.

Mr R and his representative were given the opportunity to ask questions of the Licensing Officers.

Mr R's representative then addressed the Committee.

Members of the Committee then asked question of Mr R and clarified a number of matters.

Following a summing up from the Licensing Officer and Mr R, both parties left the meeting room to allow consideration of the matter to be undertaken in private.

The options available to the Committee were:

- Take no action
- Issue a warning as to the driver's future conduct
- Suspend the driver's licence; or
- Revoke the driver's licence

The Committee considered that it was an established principle that a licence was a privilege and not a right and considered all the options available to it.

In determining its response, the Committee took into account all that had been presented and contained within the papers submitted to the meeting and had regard to Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, the Council's Hackney Carriage and Private Hire Licensing Policy and the Statutory Taxi & Private Hire Vehicle Standards.

**RESOLVED** that Mr R remained a fit and proper person to hold a Private Hire Driver's Licence and that a warning be issued as to his future conduct.

#### **RQ10/23      Private Hire Driver's Licence Disciplinary Referral - Mr E**

The Committee received a report from the Head of Public Protection which outlined the background to a referral relating to the holder of a Private Hire Vehicle Licence, Mr E.

The Committee was requested to determine whether any disciplinary action was

required and to assess Mr E's suitability to carry out the duties of a licensed driver.

A Licensing Officer and Mr E attended the meeting.

The Licensing Officer presented the report and answered questions from the Committee.

Mr E was given the opportunity to ask questions of the Licensing Officers.

Mr E then addressed the Committee.

Members of the Committee then asked question of Mr E and clarified a number of matters.

Following a summing up from the Licensing Officer and Mr E, both parties left the meeting room to allow consideration of the matter to be undertaken in private.

The options available to the Committee were:

- Take no action
- Issue a warning as to the driver's future conduct
- Suspend the driver's licence; or
- Revoke the driver's licence

The Committee considered that it was an established principle that a licence was a privilege and not a right and considered all the options available to it.

In determining its response, the Committee took into account all that had been presented and contained within the papers submitted to the meeting and had regard to Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, the Council's Hackney Carriage and Private Hire Licensing Policy and the Statutory Taxi & Private Hire Vehicle Standards.

**RESOLVED** that Mr E was no longer a fit and proper person to hold a licence with this Authority and that his Private Hire Driver's Licence be revoked.



## Regulation and Review Committee (Panel)

**Thursday, 9 February 2023**

Present: Councillor T Mulvenna (Chair)  
Councillors L Bones, P Earley and J O'Shea

In attendance:  
Councillors

Apologies: Councillors John Hunter

### **RQ11/23 To Receive any Declarations of Interest and Notification of any Dispensations Granted**

There were no declarations or dispensations reported.

### **RQ12/23 Exclusion Resolution**

**RESOLVED** that under Section 100A(4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

### **RQ13/23 Private Hire Driver's Licence Disciplinary Referral - Mr O**

The Committee considered a report from the Head of Public Protection which outlined the background to a referral relating to the holder of a Private Hire Driver's licence, Mr O.

The Committee was requested to determine whether any disciplinary action was required and to assess Mr O's continued suitability to carry out the duties of a licensed driver.

A Licensing Officer and Mr O attended the meeting. Mr O was accompanied by a friend.

The Licensing Officer presented the report and answered questions from members of the Committee.

Mr O was given the opportunity to ask questions of the Licensing Officer.

Mr O then addressed the Committee.

Members of the Committee then asked questions of Mr O and sought clarification on a number of matters.

Following a summing up from the Licensing Officer and Mr O, both parties left the meeting room to allow consideration of the matter to be undertaken in private.

The options available to the Committee were:

- take no action
- issue a warning as to the driver's future conduct
- suspend the driver's licence; or
- revoke the driver's licence

In determining its response the Committee took into account all that had been presented and contained within the papers submitted to the meeting and had regard to Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, the Council's Hackney Carriage and Private Hire Licensing Policy and the Statutory Taxi & Private Hire Vehicle Standards.

**RESOLVED** that Mr O remains a fit and proper person to hold a Private Hire Driver's licence and be issued with a warning as to his future conduct.

#### **RQ14/23 Private Hire Driver's Licence Disciplinary Referral - Ms P**

The Committee received a report from the Head of Public Protection in relation to Ms P, a Private Hire Driver.

Ms P had been invited to the meeting but was not in attendance.

The Committee determined that Ms P should be provided with one more opportunity to attend and address the Committee in person.

**RESOLVED** that Ms P's case be adjourned and considered at a future meeting.

(Councillor J O'Shea left the meeting prior to the consideration of the next case)

#### **RQ15/23 Private Hire Driver's Licence Disciplinary Referral - Mr K**

The Committee considered a report from the Head of Public Protection which outlined the background to a referral relating to the holder of a Private Hire Driver's licence, Mr K.

The Committee was requested to determine whether any disciplinary action was required and to assess to Mr K's continued suitability to carry out the duties of a licensed driver.

A Licensing Officer and Mr K attended the meeting, along with Mr K's legal representatives.

The Licensing Officer presented the report and answered questions from members of the Committee.

Mr K and his legal representatives were given the opportunity to ask questions of the Licensing Officer.

Mr K's legal representatives then addressed the Committee.

Members of the Committee then asked questions of Mr K and sought clarification on a number of matters.

Following a summing up from the Licensing Officer and Mr K's representative, both parties left the meeting room to allow consideration of the matter to be undertaken in private.

The options available to the Committee were:

- take no action
- issue a warning as to the driver's future conduct
- suspend the driver's licence; or
- revoke the driver's licence

In determining its response the Committee took into account all that had been presented and contained within the papers submitted to the meeting and had regard to Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, the Council's Hackney Carriage and Private Hire Licensing Policy and the Statutory Taxi & Private Hire Vehicle Standards.

**RESOLVED** that Mr K's Private Hire Driver's licence be revoked with immediate effect as he was no longer considered to be a fit and proper person to hold a licence with this Authority.

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## Regulation and Review Committee (Panel)

Thursday, 30 March 2023

Present: Councillor T Mulvenna (Chair)  
Councillors L Bones, P Earley and J O'Shea

### **RQ16/23 To Receive any Declarations of Interest and Notification of any Dispensations Granted**

There were no declarations of interest or dispensations reported.

### **RQ17/23 Exclusion Resolution**

**RESOLVED** that under Section 100A(4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

### **RQ18/23 Private Hire Driver's Licence Disciplinary Referral - Ms P**

The Committee considered a report from the Head of Public Protection which outlined the background to a referral relating to the holder of a Private Hire Driver's Licence, Ms P.

The Committee was requested to determine whether any disciplinary action was required and to assess Ms P's continued suitability to carry out the duties of a licensed driver.

Ms P had been invited to attend the meeting but was not present.

A Licensing Officer presented a report to the Committee and Members were given the opportunity to ask questions.

Following a summing up of the case, the Licensing Officer left the room.

The options available to the Committee were:

- Take no action
- Issue a warning as to the driver's future conduct
- Suspend the driver's licence; or
- Revoke the driver's licence

In determining its response the Committee took into account all that had been presented and contained within the papers submitted to the meeting and had regard to Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, the Council's Hackney Carriage and Private Hire Licensing Policy and the Statutory Taxi and Private Hire Vehicle Standards.

**RESOLVED** that Ms P's Private Hire Driver's licence be revoked with immediate effect as she was no longer considered to be a fit and proper person to hold a licence with this Authority.

#### **RQ19/23      Private Hire Driver's Licence Disciplinary Referral - Mr I**

The Committee considered a report from the Head of Public Protection which outlined the background to a referral relating to the holder of a Private Hire Driver's licence, Mr I.

The Committee was requested to determine whether any disciplinary action was required and to assess Mr I's continued suitability to carry out the duties of a licensed driver.

A Licensing Officer and Mr I attended the meeting.

The Licensing Officer presented the report and answered questions from members of the Committee.

Mr I was given the opportunity to ask questions of the Licensing Officer.

Mr I then addressed the Committee.

Members of the Committee asked questions of Mr I and sought clarification on a number of matters.

Following a summing up from the Licensing Officer and Mr I, both parties left the meeting room to allow consideration of the matter to be undertaken in private.

The options available to the Committee were:

- Take no action
- Issue a warning to the driver's future conduct
- Suspend the driver's licence; or
- Revoke the driver's licence

In determining its response the Committee took into account all that had been presented and contained within the papers submitted to the meeting and had regard to Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, the Council's Hackney Carriage and Private Hire Licensing Policy and the Statutory Taxi and Private Hire Vehicle Standards.

**RESOLVED** that Mr I be issued a warning as to his future conduct.

### **RQ20/23      Private Hire Driver's Licence Disciplinary Referral - Mr G**

The Committee considered a report from the Head of Public Protection which outlined the background to a referral relating to the holder of a Private Hire Driver's Licence, Mr G.

The Committee was requested to determine whether any disciplinary action was required and to assess Mr G's continued suitability to carry out the duties of a licensed driver.

A Licensing Officer and Mr G attended the meeting, along with Mr G's representative.

The Licensing Officer presented the report and answered questions from members of the Committee.

Mr G and his representative were given the opportunity to ask questions of the Licencing Officer.

Mr G's representative then addressed the Committee.

Members of the Committee then asked questions of Mr G and sought clarification on a number of matters.

Following a summing up from the Licensing Officer and Mr G's representative, both parties left the meeting room to allow consideration of the matter to be undertaken in private.

The options available to the Committee were:

- Take no action
- Issue a warning as to the driver's future conduct
- Suspend the driver's licence; or
- Revoke the driver's licence

In determining its response the Committee took into account al that had been presented and contained within the papers submitted to the meeting and had regard to Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, the Council's Hackney Carriage and Private Hire Licensing Policy and the Statutory Taxi & Private Hire Vehicle Standards.

**RESOLVED** that Mr G be given a warning as to his future conduct.

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## Regulation and Review Committee (Panel)

**Thursday, 20 April 2023**

Present: Councillor T Mulvenna (Chair)  
Councillors L Bartoli and L Bones

### **RQ21/23 To Receive any Declarations of Interest and Notification of any Dispensations Granted**

There were no declarations of interest or dispensations reported.

### **RQ22/23 Exclusion Resolution**

**RESOLVED** that under Section 100A(4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

### **RQ23/23 Private Hire Driver's Licence Appeal - Mr S**

The Committee considered a report from the Head of Public Protection which set out the background to an appeal submitted by Mr S against the decision of the Authority to refuse to grant him a Private Hire Driver's licence.

The Committee was requested to determine whether to uphold the appeal and grant Mr S a licence, or dismiss the appeal and confirm the decision of the Authority not to grant Mr S a licence.

A Licensing Officer and Mr S attended the meeting.

The Licensing Officer presented the report and answered questions from members of the Committee.

## Regulation and Review Committee (Panel)

Mr S was given the opportunity to ask questions of the Licensing Officer.

Mr S then addressed the Committee.

Members of the Committee then asked questions of Mr S and sought clarification on a number of matters.

Following a summing up from the Licensing Officer and Mr S, both parties left the room to allow consideration of the matter to be undertaken in private.

In determining its response, the Committee took into account all that had been presented and contained within the papers submitted to the meeting and had regard to Section 51 of the Local Government (Miscellaneous Provisions) Act 1976, the Council's Hackney Carriage and Private Hire Licensing Policy and the Statutory Taxi & Private Hire Vehicle Standards.

**RESOLVED** that Mr S's appeal be dismissed as the Committee was not satisfied that he is a fit and proper person to hold a licence with this Authority.

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## Regulation and Review Committee (Panel)

Thursday, 27 July 2023

Present: Councillor D Drummond (Chair)  
Councillors V Jamieson and T Mulvenna

### **RQ1/23 To Receive any Declarations of Interest and Notification of any Dispensations Granted**

There were no declarations of interest or dispensations reported.

### **RQ2/23 Exclusion Resolution**

**RESOLVED** that under Section 100A(4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

### **RQ3/23 Private Hire Driver's Licence Appeal - Mr R**

The Committee had been provided with a report from the Head of Public Protection which set out the background to an appeal submitted by Mr R against the decision of the Authority to refuse to grant him a Private Hire Driver's licence.

A Licensing Officer and Mr R attended the meeting.

Prior to consideration of the report, Mr R addressed the Committee and set out a request for his appeal to be deferred, in order to allow him time to acquire medical information.

**RESOLVED** that considered of Mr R's appeal be deferred to allow time for medical information to be requested.





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## Regulation and Review Committee (Panel)

Thursday, 14 September 2023

Present: Councillor D Drummond (Chair)  
Councillors L Bartoli, E Darke and J O'Shea

**RQ4/23 To Receive any Declarations of Interest and Notification of any  
Dispensations Granted**

There were no interests or dispensations reported.

**RQ5/23 Exclusion Resolution**

**RESOLVED** that under Section 100A(4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

**RQ6/23 Hackney Carriage and Private Hire Driver's Licence Disciplinary  
Referral - Mr I**

The Committee considered a report from the Head of Public Protection which set out the background to a disciplinary referral relating to the holder of a Hackney Carriage and Private Hire Driver's licence, Mr I.

The Committee was requested to determine whether any disciplinary action was required and to assess Mr I's continued suitability to carry out the duties of a licensed driver.

Mr I was in attendance at the meeting, along with a friend.

A Licensing Officer presented a report and Mr I and members of the Committee

were invited to ask questions.

Mr I was invited to present his case and the Licensing Officer and members of the Committee were invited to ask questions.

Following summing up of both cases, both parties left the room.

The options available to the Committee were:

- Take no action
- Issue a warning as to the drivers future conduct
- Suspend the driver's licence; or
- Revoke the driver's licence

In determining its response the Committee took into account all that had been presented and contained within the papers submitted to the meeting and had regard to Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, the Council's Hackney Carriage and Private Hire Licensing Policy and the Statutory Taxi and Private Hire Vehicle Standards.

**RESOLVED** that Mr I's licence be suspended for a period of 3 months.

### **RQ7/23      Private Hire Driver's Licence Disciplinary Referral - Mr S - To Follow**

The Committee considered a report from the Head of Public Protection which set out the background to a disciplinary referral relating to the holder of a Private Hire Driver's licence, Mr S.

The Committee was requested to determine whether any disciplinary action was required and to assess Mr S's continued suitability to carry out the duties of a licensed driver.

Mr S had been invited to attend the meeting but declined the invite.

A Licensing Officer presented the report members of the Committee were invited to ask questions.

The Licensing Officer left the room to allow the Committee to make a decision in private.

The options available to the Committee were:

- Take no action
- Issue a warning as to the drivers future conduct
- Suspend the driver's licence; or
- Revoke the driver's licence

In determining its response the Committee took into account all that had been presented and contained within the papers submitted to the meeting and had regard to Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, the Council's Hackney Carriage and Private Hire Licensing Policy and the Statutory Taxi and Private Hire Vehicle Standards.

**RESOLVED** that Mr S's licence be revoked with immediate effect as he is no longer a fit and proper person to hold a licence with this Authority.

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# North Tyneside Council

## Report to Regulation and Review Committee

### Date: 19 October 2023

**Title: Annual Review of Council Policy on Covert Surveillance**

**Report from Service Area:**                      **Governance**

**Responsible Officer:**                      **Allison Mitchell, Head of Governance**                      **(Tel: 0191 643 5720)**

**Wards affected:**                      **All**

#### **PART 1**

##### **1.1 Executive Summary:**

The Cabinet at its meeting on 27 November 2023 will consider an updated Covert Surveillance Policy. In accordance with the Codes of Practice applying to the Regulation of Investigatory Powers Act 2000 (RIPA) the Authority's Policy is subject to annual review. A copy of the proposed Policy for 2023 is attached at **Appendix 1**. Regulation and Review Committee is requested to consider the revised proposed policy and to recommend the Policy to Cabinet for agreement on 27 November 2023.

##### **1.2 Recommendation(s):**

It is recommended that the Committee:

1. note the Authority's proposed updated Policy on Covert Surveillance (attached at **Appendix 1**); and
2. recommend the proposed Policy to Cabinet for adoption at its meeting on 27 November 2023.

## 1.3 Information:

### 1.3.1 Introduction

The Authority's current Surveillance Policy was approved by Cabinet in November 2022 and is subject to annual review. The Policy has been subject to a review by Officers and the revised proposed policy is attached at **Appendix 1**. Amendments have been made to current Policy to reflect organisational changes and revised reporting lines which have been put in place within the organisation since that time. All other aspects of the previously adopted Policy remain fit for purpose.

The aims of the Authority's Policy are to:

- Set out the Authority's arrangements for complying with RIPA; the relevant Codes of Practice and guidance issued by the Home Office; and guidance from the Investigatory Powers Commissioner's Office (IPCO).
- Give effect to the rights of citizens to respect for their private and family lives (pursuant to the Human Rights Act 1998); and
- Protect the Authority from legal challenge when undertaking surveillance.

### 1.3.2 The RIPA Shield

The Regulation of Investigatory Powers Act 2000 (RIPA) puts covert surveillance on a statutory basis. RIPA enables certain public authorities, including this Authority, to carry out surveillance operations with statutory protection from legal challenge. It is often referred to as the "RIPA shield".

Three covert investigatory techniques are available to local authorities under RIPA:

- i. the acquisition and disclosure of communications data such as telephone billing information or subscriber details e.g., to tackle rogue traders.
- ii. directed surveillance – covert surveillance of individuals in public places e.g., to tackle criminal activity arising from anti-social behaviour; and
- iii. covert human intelligence sources (CHIS) such as the deployment of undercover officers.

The RIPA provisions may only be used to authorise surveillance activities to detect and prevent serious crime and any authorisation is subject to a requirement to seek authorisation from an 'Authorising Officer' and to obtaining judicial approval from the Magistrates' Court before any surveillance is undertaken. The Authorising Officers within the Authority are:

Paul Hanson – Chief Executive; and  
Colin MacDonald – Senior Manager, Technical & Regulatory Services

Officers from Legal accompanied by the relevant Authorising Officer will present any authorisation to the Magistrates' Court for judicial approval. All authorisations will be subject to an internal scrutiny process prior to being submitted for such approval.

Local authorities may undertake surveillance for other purposes, but such surveillance will not benefit from the RIPA shield and will leave a local authority vulnerable to challenge. For this reason, all surveillance activity undertaken by the Authority, whether within the RIPA regime or not, must be appropriately authorised by one of the Authorising Officers and is subject to central monitoring and challenge.

### 1.3.3 Central Register

The Authority has a Central Register of all RIPA and non-RIPA surveillance activity. The Central Register is maintained and monitored by Governance.

### 1.3.4 Inspection

Organisations using RIPA are subject to regular inspection by Investigatory Powers Commissioner's Office (IPCO).

The Authority received a virtual online inspection visit from the IPCO on 12 September 2023. The purpose of the IPCO inspection was to examine the policies, procedures, operations, and administration the Authority has in place in relation to the use of directed surveillance and covert human intelligence sources.

The outcome of the inspection was very supportive of the Authority's actions to manage its responsibilities under RIPA.

The Inspector made no recommendations in relation to the Authority's Covert Surveillance Policy and commented on the Authorities recent authorisations as "well formed".

The Committee are requested to review the proposed Policy and recommend to Cabinet that the Policy be adopted.

### 1.3.5 Summary of Use of Surveillance, Acquisition of Communications Data and CHIS

It should be noted that following the changes to the RIPA regime from 1 November 2012 reported to the Committee in October 2012, the Authority has utilised the powers five times since our last inspection in September 2020, for directed surveillance, alongside non-RIPA applications for test purchasing. The justification most used by local authorities generally for authorising covert surveillance (addressing anti-social behaviour) was removed on 31 October 2012. Authorisations may now only be sought on the grounds that it relates to the prevention and detection of serious crime. Serious crime is defined as crime punishable, whether on summary conviction or on indictment, by a maximum term of at least 6 months of imprisonment, or would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933. The latter are all offences involving sale of tobacco and alcohol to underage children.

Governance keeps the Central Record of authorisations under review and advises Authorising Officers/Designated Persons of changes in approach or procedure.

### 1.3.6 Corporate Responsibilities

The Codes of Practice advise that a Senior Responsible Officer (SRO) should be identified to ensure the Authority has appropriate policies and processes that accord with RIPA and the related Codes of Practice.

The Officer Delegation Scheme places the Senior Responsible Officer role with the Head of Resources.

Each Head of Service is responsible for ensuring effective and legally compliant systems and procedures are in place for surveillance work within their Service Areas.

All employees connected with surveillance and handling of evidence are responsible for ensuring that they act only in accordance with their level of



responsibility and training and in accordance with the Policy and associated documents. To assist in this an 'Employee Handbook: Use of Covert Surveillance, Covert Human Intelligence Sources and Communications Data', has been prepared. The Handbook provides key information for Officers and directs them towards key sources of detailed guidance. It is kept under review and revised as necessary to ensure it reflects current procedures and best practice.

If Officers wish to undertake surveillance that falls outside of the RIPA regime, they must take legal advice and seek appropriate authorisation. Information regarding surveillance (whether under RIPA or not) must be held centrally by the Senior Responsible Officer to enable the Authority to have an overview of all surveillance activities being undertaken by the Authority.

#### Use of Social Media for the collection of personal information

The application of the requirements of RIPA to the use of informants via, in particular, social media, is a developing area of surveillance law. Social Media provides the opportunity for the Authority to monitor, for example, individual rogue traders who trade on-line in the context of trading standards investigations. The continued monitoring of the activities of an individual or the development of a relationship with a trader with the purpose of eliciting information from the trader may fall within the RIPA regime.

As stated above this is an area which is continuing to be monitored as it develops, and Officers from Law and Trading Standards are considering how such activities should be undertaken and whether those activities go as far as requiring a RIPA authorisation.

In addition, the Authority may undertake such surveillance for activities that could not benefit from the protection of the RIPA shield i.e., the activity being investigated would not meet the serious crime test, for example, in child protection. Such surveillance may simply be the monitoring of entries on social media (e.g., Facebook) where concerns about breaches of the social media policy may arise. In these circumstances whilst the surveillance is not unlawful it leaves a local authority more vulnerable to challenge as it still entails the collection of information about an individual. For this reason, the Authority requires that all surveillance activity undertaken by the Authority outside of the RIPA regime must be appropriately authorised by one of the Authorising Officers and is subject to central monitoring.

Further information has been and will be provided to Heads of Service to raise awareness of RIPA, the circumstances when a RIPA authorisation is necessary and those circumstances where surveillance activity outside of the RIPA regime must still be appropriately authorised.

### 1.3.7 Compliance and Oversight

The Codes of Practice indicate that elected members of a local authority should review its use of RIPA and set the general surveillance policy at least annually. A local authority should also consider internal reports on the use of RIPA at least quarterly to ensure that it is being used consistently in compliance with the Authority's Policy and that the Policy remains fit for purpose. It was agreed by the Committee in 2015 that the use of RIPA should be reported to the Committee on an exception basis. Therefore, when an authorisation is granted, it will be reported at the next available meeting of the Committee to ensure the requirements for member oversight of the use of the Authority's RIPA powers are discharged.

To meet these requirements the Policy Statement provides that:

- Cabinet receives an annual report covering the Authority's use of RIPA powers, and review of the Policy for the following year.
- Reports are presented to the Regulation and Review Committee on the Authority's use of RIPA powers. The Committee's role is to look at compliance, oversight, and use of RIPA. The Committee will also consider whether the Policy remains fit for purpose and recommend changes to the Policy as appropriate for Cabinet's consideration; and
- The Elected Mayor who has responsibility for RIPA related activities receives regular updates from the Senior Responsible Officer regarding the use of the Authority's powers.

### 1.3.8 Closed Circuit Television (CCTV) Systems

North Tyneside Council's CCTV control room operates cameras throughout the Borough.

Overt surveillance as conducted using CCTV is covered by the Data Protection Act 2018 and not by RIPA. Signage is in place informing the public when they enter zones covered by CCTV equipment. The Council's CCTV control room is registered with the Biometrics and Surveillance Camera Commissioner.

If the CCTV cameras are used for covert surveillance (whether by the Authority or the Police), a RIPA authorisation is required. The Police may make formal written requests for surveillance of a target for which they have a RIPA authorisation. The CCTV Control Room Co-ordinator will seek written confirmation of this authorisation.

#### **1.4 Appendices:**

Appendix 1: Policy on Covert Surveillance (proposed)

#### **1.5 Contact officers:**

Allison Mitchell, Head of Governance, Governance Service (0191 643 5720)

Emma Phillips, Interim Information Governance and Compliance Manager/Data Protection Officer, Governance Service (0191 643 8785)

#### **1.6 Background information:**

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- Regulation of Investigatory Powers Act 2000 and relevant Orders
- Home Office Code of Practice

## **PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING**

### **2.1 Finance and other resources**

The provisions of the Policy can be implemented within the Service's existing resources.

### **2.2 Legal**

The Policy has been prepared with reference to the relevant law and Codes of Practice. A number of Statutory Instruments and Codes of Practice published by the Home Office govern the operation of RIPA.

The Authority may only authorise directed surveillance where it is both necessary and proportionate to the investigation or operation being undertaken and to what is being sought to achieve in terms of evidence gathering. Senior Officers are appointed as

Authorising Officers and have a key role in carefully scrutinising all applications for the use of RIPA powers under a specific authorisation. Judicial approval is required from the Magistrates' Court in relation to all authorisations prior to any surveillance being undertaken.

Authorising Officers must ensure that authorisations are granted only in appropriate cases and that the extent of all authorisations are clearly set out.

The Authority cannot authorise intrusive surveillance under RIPA. Intrusive surveillance would involve placing an investigator on residential premises or in a private vehicle or allowing the use of an external surveillance device outside of the premises or vehicle that gives the same quality of information as if it was on the premises or in the vehicle.

The Policy, together with the Employee Handbook covers the procedures to be followed in seeking authorisations, maintaining appropriate oversight of the Policy and the central record of decisions.

### **2.3 Consultation/community engagement**

The Policy is aimed at ensuring adherence to the best practice contained within the Codes of Practice as well as the law.

Internal consultation has taken place with Officers with responsibility for the management and supervision of surveillance activity as well as with the Elected Mayor.

### **2.4 Human rights**

Human rights implications are addressed within the report and the Policy. RIPA provides a framework under which surveillance activity can be authorised and conducted in a way that is compatible with the rights of individuals.

The Authority must also ensure that activity that falls outside of the RIPA regime is subject to scrutiny and authorisation to ensure that human rights are respected, and the activity is lawfully undertaken.

### **2.5 Equalities and diversity**

There are no equalities and diversity implications directly arising from the report.

### **2.6 Risk management**

The Authority's Policy and the procedures contained in the Employee Handbook are designed to ensure the Authority complies with the law and Codes of Practice and thereby reduce the risks associated with surveillance activity.

## **2.7 Crime and disorder**

RIPA may only be utilised by the Authority for the purposes of detecting and preventing crime.

## **2.8 Environment and sustainability**

There are no environment and sustainability implications directly arising from this report.

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**(November 2023)**



# North Tyneside Council

## **Covert Surveillance Policy**

**(Regulation of Investigatory Powers Act 2000)  
(RIPA)**

## **1. INTRODUCTION**

This is North Tyneside Council's Covert Surveillance Policy document. It sets out the adopted approach of the Authority to ensure that any surveillance activity undertaken by the Authority is conducted in a way that is compatible with the human rights of individuals, in particular the right to respect for private and family life (in accordance with Article 8 of the European Convention on Human Rights).

The aim of the Policy is to:

- Explain the Authority's arrangements for authorising surveillance activity;
- Direct Officers to the key sources of guidance to ensure compliance with the Policy;
- Give effect to the rights of citizens to respect for their private and family lives (pursuant to the Human Rights Act 1998);
- Protect the Authority from legal challenge when undertaking surveillance; and
- Assist the Authority in complying with the Codes of Practice, Regulations and Orders issued under the Regulation of Investigatory Powers Act 2000 (RIPA) and to meet the requirements of the Inspectors from the Investigatory Powers Commissioner's Office (IPCO).

## **2. POLICY STATEMENT**

The Authority agrees that as a matter of policy:

- The Authority is committed to complying with:
  - (a) the Regulation of Investigatory Powers Act 2000 (RIPA) and the Codes of Practice issued under RIPA by the Home Office; and
  - (b) guidance supplied by the Investigatory Powers Commissioner's Office (IPCO).
- Surveillance that falls outside of the RIPA regime will be subject to the non-RIPA authorisation procedure and central monitoring to ensure:
  - (a) the Authority has an overview of all surveillance activity it undertakes;
  - (b) such activity is appropriately scrutinised; and
  - (c) the rights of individuals are appropriately safeguarded.
- Relevant Officers shall receive sufficient training and guidance so as to reasonably ensure such compliance;
- Any Officer shall, if in any doubt about whether the legislation applies in a particular case or how to comply with it, seek guidance from an Authorising Officer and/or the Director of Resources.



### **3. REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)**

The Regulation of Investigatory Powers Act 2000 (RIPA) provides a framework under which covert surveillance activity can be authorised and conducted in a way that is compatible with the rights of individuals. Where RIPA is complied with it provides statutory protection from legal challenge to the local authority and for this reason it is often referred to as the "RIPA shield".

Three covert investigatory techniques are available to local authorities under RIPA:

- i. directed surveillance – covert surveillance of individuals in public places e.g. to tackle criminal activity;
- ii. covert human intelligence sources (CHIS) such as the deployment of undercover officers; and
- iii. the acquisition and disclosure of communications data such as telephone billing information or subscriber details e.g. to tackle rogue traders.

The Authority will use RIPA authorised surveillance where appropriate to detect and prevent crime. Authorisation will only be given where the proposed surveillance is both necessary and proportionate.

The Protection of Freedoms Act 2012 requires local authorities to obtain the prior approval of a Justice of the Peace before the use of any one of the three covert investigatory techniques available as detailed above. An approval is also required if an authorisation to use such techniques is being renewed.

In each case, the role of the Justice of the Peace is to ensure that the correct procedures have been followed and the relevant factors have been considered. Approval can only be given if the Justice of the Peace is satisfied that:

- a) There were reasonable grounds for the Authority's Authorising Officer approving the application to believe that the Directed Surveillance or deployment of a CHIS was necessary and proportionate and that there remain reasonable grounds for believing so;
- b) The Authorising Officer was of the correct seniority within the organisation i.e. a Head of Service, Service Manager or equivalent in accordance with the relevant Regulations;

- c) The granting of the authorisation was for the prescribed purpose of preventing or detecting crime and satisfies the Serious Offence Test for Directed Surveillance (see below); and
- d) Any other conditions set out in any order under Part 2 of RIPA are satisfied (there are none at present).

In addition to the above, where the authorisation is for the deployment of a CHIS, the Justice of the Peace must be satisfied that:

- a) the local authority can ensure that there are officers in place to carry out roles relating to the handling and management of the CHIS as well as the keeping of records.
- b) Where the CHIS is under 16 or 18 years of age, the necessary requirements in relation parental consent, meetings, risk assessments and the duration of the authorisation have been satisfied. Note that the authorisation of such persons to act as a CHIS must come from the Head of Paid Service.
- c) Where the application is for the renewal of a CHIS authorisation, a review has been carried out by the local authority and the Justice of the Peace has considered the results of the review.

The provisions in relation to judicial approval make it clear that the Authorising Officer is not required to apply in person and there is no need to give notice to either the subject of the authorisation or their legal representatives. This reflects the covert nature of the exercise of the investigatory powers under RIPA. The Authority would be represented in any application to a Justice of the Peace by the Authority's Legal Service and the Authorising Officer.

There is no requirement for a Justice of the Peace to consider either cancellations or internal reviews of authorisations.

At all times the risk of obtaining private information about persons who are not subjects of the surveillance must be considered (collateral intrusion) and steps must be taken to avoid or minimise it.

Examples of investigations where it is envisaged that covert techniques may be utilised to enable local authorities to gather evidence and offer evidence in legal proceedings include:

- Trading Standards e.g., action against loan sharks and rogue traders, car fraud, consumer scams, deceptive advertising, counterfeit goods, unsafe toys, and electrical goods; and
- Environmental protection e.g., action to stop large scale waste dumping, the sale of unfit food etc.

### Serious Offence Test

Local authorities may only use the RIPA provisions to authorise surveillance activities to detect and prevent crime as defined by the Regulations. In particular the crime which is sought to be prevented or detected by the surveillance activity must be punishable, whether on summary conviction or on indictment, by a maximum term of at least 6 months of imprisonment, or would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003, section 7 of the Children and Young Persons Act 1933 and sections 91 and 92 of the Children and Families Act 2014. The latter are all offences involving sale of tobacco and alcohol to underage children.

## **4. NECESSARY AND PROPORTIONATE**

The Authority may only authorise directed surveillance, CHIS, or the acquisition of communications data where it is both necessary and proportionate to what it seeks to achieve. Senior Offices are appointed as Authorising Officers (or Designated Persons for communications data purposes) and have a key role to play in carefully scrutinising all applications. Authorising Officers/Designated Persons must ensure that authorisations are granted only in appropriate cases and that the extent of all authorisations are clearly set out.

## **5. COLLATERAL INTRUSION**

Collateral intrusion is obtaining private information about persons who are not subjects of the surveillance. The risk of collateral intrusion must be considered, and measures should be taken to avoid or minimise it.

## **6. NON-RIPA SURVEILLANCE**

Surveillance activity which falls outside of RIPA, for example, monitoring of employees, does not benefit from the RIPA shield. When operating outside of the RIPA regime there is a greater risk of breaching an individual's rights or being successfully challenged.

The Authority via its Senior Responsible Officer retains a central register of non-RIPA surveillance activity. Officers are required to take great care to appropriately record, authorise, monitor and scrutinise such activity.

The principles of proportionality and necessity and the requirement to avoid or minimise collateral intrusion also apply to non-RIPA surveillance.

## **7. CLOSED CIRCUIT TELEVISION (CCTV) SYSTEMS**

Overt surveillance via CCTV is covered by the Data Protection Act 2018 and not by RIPA. CCTV is subject to the Surveillance Camera Code of Practice under the Data Protection Act, which is overseen by the Surveillance Camera Commissioner.

Signage must be in place to inform the public when they enter zones covered by CCTV equipment.

A central record of all CCTV in buildings operated by the Authority is held by the Senior Responsible Officer.

If CCTV cameras are used for covert surveillance (whether by the Authority or the Police), a RIPA authorisation is required.

North Tyneside Council's CCTV control room operates cameras throughout the North Tyneside area. The Police may make formal written requests for surveillance of a target for which they have a RIPA authorisation. Confirmation by sight of this authorisation will be sought and a copy will be retained (redacted as appropriate) by the CCTV Control Room Co-Ordinator.

Employees using CCTV covertly must be aware of the possibility of collateral intrusion (invading the privacy of people other than the target) and take steps to avoid or minimise it.

The Protection of Freedoms Act 2012 makes provision for the further regulation of surveillance camera systems. These are defined as Closed Circuit Television (CCTV), Automatic Number Plate Recognition (ANPR) and other surveillance camera technology.

The Surveillance Camera Code of Practice also includes guidance in relation to the development or use of such systems, and the use and processing of information derived from them. The Code of Practice includes provisions about:

- considerations as to whether to use surveillance camera systems
- types of systems or apparatus
- technical standards for systems or apparatus
- locations for systems or apparatus
- the publication of information about systems or apparatus
- standards applicable to persons using or maintaining systems or apparatus
- standards applicable to persons using or processing information obtained by virtue of systems
- access to, or disclosure of, information so obtained
- procedures for complaints or consultation

The Authority must have regard to the Code if they operate or intend to operate any surveillance camera systems covered by the Code.

Failure to adhere to the Code will not in itself render an organisation liable to legal proceedings, but the Code is admissible in civil or criminal proceedings. The Code could also be enforced by way of judicial review in the High Court.

The CCTV provisions in the Protection of Freedoms Act 2012 add a completely new layer of control over the use of CCTV by local authorities.

## **8. CORPORATE RESPONSIBILITIES**

The Authority's Senior Responsible Officer (currently the Director of Resources) has overall responsibility for RIPA.

The Senior Responsible Officer appoints Authorising Officers and Designated Persons. A list of Authorising Officers/Designated Persons is held with the Central Record. This list may change as required. Only Authorised Officers named in the list may authorise covert surveillance activities under RIPA. Only Designated Persons named in the list may authorise the acquisition of communications data. The Senior Responsible Officer may remove an Officer from the list where they consider it is appropriate to do so.

In particular, the Senior Responsible Officer ensures that:

- Only Officers who have received appropriate training on RIPA are permitted to become Authorising Officers/Designated Persons.
- Refresher training is provided as required and training records are maintained.

- Monitoring arrangements are in place in each Service to ensure that the Authority is meeting its obligations under RIPA, the Codes of Practice, and this Policy.
- Reviews of authorisation documentation take place to ensure that they are completed in accordance with the requirements of RIPA, the Codes of Practice and Authority guidance. Appropriate feedback is given to officers to ensure high standards are encouraged and maintained.
- The Central Record is maintained in accordance with the requirements of the Codes of Practice and Authority guidance.
- An up-to-date copy of this Policy and associated guidance is available to all relevant employees.
- An annual review of this Policy is undertaken and presented to Cabinet for approval, in addition to provision of monitoring information.

The RIPA Co-ordinating Officer (currently the Head of Governance) supports the Senior Responsible Officer in relation to the discharge of that role. The RIPA Co-ordinating Officer also monitors all authorisations and provides robust challenge to authorisations to ensure they meet the requirements of the law and this Policy.

Each Head of Service is responsible for ensuring effective and legally compliant systems and procedures are in place for surveillance work within their Service Areas in respect of any surveillance activity whether undertaken within or outside of the RIPA provisions.

The Senior Responsible Officer is also responsible for ensuring that:

- Relevant officers receive appropriate training on RIPA before undertaking investigations that include (or may include) Directed Surveillance, the use of a CHIS or the acquisition or disclosure of communications data.
- Refresher training is provided as required and training records are maintained and supplied to the Senior Responsible Officer.
- Authorisations are approved, reviewed, renewed, and cancelled by the Authorising Officer/Designated Person as necessary, and such actions are reported to the Senior Responsible Officer.
- Records and evidence obtained because of surveillance/investigation are kept and destroyed in accordance with Authority Policy.

All employees connected with surveillance and handling evidence are responsible for ensuring that they act only in accordance with their level of responsibility and training and in accordance with this Policy and associated documents.

## **9. GUIDANCE**

The Authority's intranet has a surveillance page containing the key guidance documents, including this Policy, the Employee Handbook, the relevant Codes of Practice, a guide to completing RIPA forms and a link to the Home Office RIPA forms.

The Authority has prepared the 'Employee Handbook: Use of Covert Surveillance & Covert Human Intelligence Sources & Communications Data (Regulation of Investigatory Powers Act 2000 (RIPA))' to provide guidance to Authority Officers regarding the use of RIPA and the procedures that must be followed.

The Employee Handbook may be revised by the Senior Responsible Officer during the year to reflect changes in procedures or best practice.

All Authority Officers who may authorise or undertake surveillance work must read the Handbook and follow the procedures within it.

Authority Officers are encouraged to seek guidance on the procedures from the Authorising Officers/Designated Persons and the Senior Responsible Officer.

If Officers wish to undertake surveillance which falls outside of the RIPA regime, they must seek appropriate authorisation. This is covered in the Employee Handbook. Information regarding surveillance (whether under RIPA or not) must be held centrally by the Senior Responsible Officer to enable the Authority to have an overview of all surveillance activities being undertaken.

## **10. COMPLIANCE AND OVERSIGHT**

The Senior Responsible Officer will assess compliance with this policy and associated guidance. The Senior Responsible Officer may seek support from Internal Audit as appropriate.

A random sample of authorisations will be checked monthly by the Senior Responsible Officer and on receipt by the RIPA Co-Ordinating Officer and any incorrect or incomplete authorisations will be reported to the relevant Authorising Officer and Head of Service. In addition to the sample checks the Senior Responsible Officer will provide feedback and guidance to Officers as needed throughout the year.

Elected Members have a key role in setting policy and overseeing the use of RIPA within the Authority. Members do not make investigatory/enforcement casework decisions in relation to specific authorisations.

The Elected Mayor is designated to champion compliance with RIPA within the Authority processes. The Elected Mayor receives regular updates from the Senior Responsible Officer regarding the use of the Authority's powers.

The Senior Responsible Officer consults with members of the Regulation & Review Committee at least annually on the Authority's use of the powers but will also usually report the use of RIPA to the next available committee meeting. The Committee looks at compliance, oversight, and use of RIPA. The Committee considers whether the policy remains fit for purpose and will recommend changes where appropriate for Cabinet's consideration.

Cabinet will receive an annual report upon the Authority's use of the powers and will set the policy for the following year.

The Authority has designated a Cabinet Member (currently the Elected Mayor) and a Senior Responsible Officer (currently the Director of Resources) to champion and oversee compliance with this Policy and associated procedures. Each Head of Service is responsible for ensuring compliance with RIPA in their service area.

Cabinet will review the RIPA policy and the Authority's use of RIPA on an annual basis.

## **11. REVIEW OF THIS POLICY**

The Senior Responsible Officer will review this policy and associated controls as follows:

- Annually
- Following legislative changes
- Following any recommendations received because of inspections and reviews undertaken by the Investigatory Powers Commissioner's Office
- Following any major breach in compliance.

## **12. RECORD KEEPING**

Authorising Officers must send the originals of all applications, reviews, renewals, and cancellations to the Senior Responsible Officer for filing with the Central Record. Considering the confidential nature of the data, original documents should be hand delivered and must be stored securely. Documentation must not be altered in any way following its completion. If any clarification is needed regarding the content of a



document this must be done via a separate document which must be signed and dated.

All documentation received because of an authorisation must be handled and stored securely and in line with data protection principles.

### **13. DESTRUCTION OF MATERIAL**

Any material obtained during covert surveillance that is wholly unrelated to the operation and where there is no reason to believe that it will be relevant to future civil or criminal proceedings will be destroyed immediately.

In North Tyneside Council the retention period for the central record and associated material is six years from the end of each authorisation or the conclusion of connected court proceedings (whichever date is last).

Where the retention period has expired, the authorisation and any other material obtained or created during the covert surveillance under the unique reference number will be destroyed.

The Authorising Officer/Designated Person will be responsible for ensuring that all material held in the department relating to the unique reference number is destroyed.

The Authorising Officer/Designated Person will notify the Senior Responsible Officer that the retention period has expired, giving the unique reference number and authorise destruction of the material held in the Central Record of Authorisations.

All material to be destroyed will be treated as confidential waste.

Officers should also refer to the Authority's Record Retention Guidelines before destroying any document or evidence obtained under RIPA.

Further guidance on record keeping is available in the Codes of Practice.

### **14. TRAINING**

The Senior Responsible Officer will train the senior managers responsible for overseeing and monitoring RIPA activities, all other employees involved in RIPA activities, and ensure that they understand this Policy.

The Senior Responsible Officer will keep a record of the training undertaken by employees.

## **15. CODES OF PRACTICE & RELATED AUTHORITY DOCUMENTS**

The following Codes of Practice have been issued by the Home Office:

1. Code of Practice – Covert Surveillance and Property Interference
2. Code of Practice – Covert Human Intelligence Sources
3. Code of Practice – Acquisition and Disclosure of Communications Data

All employees involved in surveillance activities must have regard to and act in accordance with:

- the Codes of Practice;
- the Employee Handbook: Use of Covert Surveillance & Covert Human Intelligence Sources & Communications Data (Regulation of Investigatory Powers Act 2000) (RIPA); and
- instruction and guidance from Authorising Officers/Designated Persons and the Senior Responsible Officer.

The Employee Handbook includes appendices providing detailed guidance to assist in the completion of RIPA forms.

## **16. MISCONDUCT**

All employees involved in RIPA activities will comply with this Policy. Failure to comply with this Policy may be dealt with as misconduct or gross misconduct under the disciplinary procedures depending upon all the circumstances of the case.

## **17. COMPLAINTS**

Any complaint made to the Authority will be dealt with in accordance with the corporate complaints procedure.

## North Tyneside Council Report to Regulation and Review Committee Date: 19 October 2023

### Title: Annual Corporate Complaints Report 2022/23

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#### Report from Service

**Area:** Corporate Strategy  
and Customer Service

**Report Authors:** Haley  
Hudson and Eilidh Cook

**Tel:** (0191) 643  
7008

**Wards affected:** All

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#### PART 1

##### 1.1 Purpose

North Tyneside Council publishes an Annual Corporate Complaints Report; it summarises the closed, registered customer complaints it has received. The next report to be published is for the year April 2022 to March 2023 and will be considered by the Authority's Cabinet on 27 November 2023.

This report summarises activity from the Annual Complaints Report 2022/23.

##### 1.2 Recommendations

It is recommended that Regulation and Review Committee:

(a) note the contents of this report.

##### 2.0 Information

##### 2.1 Background

North Tyneside Council is here to serve the residents, businesses, and visitors of the Borough; it strives to deliver excellent customer service to keep North Tyneside a great place to live, work and visit.

The Authority's Customer Promise sets out what customers should expect of council services and what they can do if things don't go well. The Authority encourages comments and feedback about any of its services, both positive and negative; they provide the opportunity to learn and continually improve how things are done. The Authority is committed to doing everything possible to resolve complaints for its customers fairly, early and as efficiently as possible.

The Customer First Office was established in July 2022 and administers the Authority's corporate and statutory complaints, in line with its associated complaints Procedures and using the standards set out in the Authority's Customer Promise.

- The Authority has a Corporate Complaint Procedure for all its services, that satisfies the requirements of both the Local Government and Social Care Ombudsman (LGSCO) and Housing Ombudsman (HO).
- Childrens social care complaints are governed by the Childrens Act 1989 and the Authority has a supplementary but complimentary Procedure for managing these, that satisfies the requirements of the Act, the LGSCO, and associated regulators.
- Adult social care complaints are governed by the Local Authority Social Services NHS Complaint Regulations (England) 2009 and the Authority has a supplementary but complimentary Procedures for these, that satisfies the requirements of the Regulations, LGSCO, and associated regulators.

The principles and commitment of the Corporate Complaint Procedure, guide the way that all complaints are managed by the Authority, regardless of any supplementary procedures used. The Authority's Corporate Complaint Procedure, defines a complaint as an expression of dissatisfaction, however made, about the services the Authority provides. It can relate to the standard of service, actions or lack of action by the Authority, its own staff, or those acting on its behalf, affecting an individual resident or group of residents and which requires a response.

In addition to complaints, the Authority's Customer First Office manages service requests; a request from a customer which requires action to be taken to put something right, but which is not categorised as a complaint. Service requests provide useful, additional information to the Authority about a customer's experience and help with service improvement.

## **2.2 Complaint and Service Request Activity 2022/23**

Serving over 208,000 residents, North Tyneside Council delivers millions of individual services and transactions each year, including those to businesses and visitors. The number of complaints raised, is a very small proportion of the overall number of services and transactions delivered.

The total number of registered complaints and service requests has decreased from 1,825 in 2021/22 to 1,616 in 2022/23.

The number of all complaints investigated by the Authority, is almost the same in 2022/23 as it was the previous year, with 645 received this year, compared with 647 the year before. However, this was higher in 2019/20 at 1,069 complaints received.

Of the 645 complaints investigated in 2022/23 -

- 50% of all complaints were for housing and property services
- Complaint reasons are broadly in line with those of the previous three years with the most frequent being:

- time taken to receive a service
  - communication, when waiting for a service to be delivered, and
  - disagreement with a decision made by the Authority, such as priority rating for housing or the outcome of an assessment by a service team.
- The proportion of complaints not upheld by the Authority, has increased from 46% in 2021/22 to 55% in 2022/23
  - Fewer complaints were resolved at Stage One in 2022/23 – 76%, compared with the previous year of 81%. More were resolved at Stage Two this year, 24%, compared with 19% in 2021/22.
  - The number of requests for Stage Three requests (excluding social care), has decreased by one in 2022/23 from the previous year. As in the previous three years, there have been no Stage Three complaints (excluding social care) heard by a panel of the Regulation and Review Committee.
  - The number of cases received by the LGSCO has reduced, from 45 in 2021/22, to 38 in 2022/23
    - Of the 38 cases, the Ombudsman carried out 11 investigations.
    - Of the 11 investigations, 10 were upheld by the Ombudsman , an increase of one, from the previous year
    - The 11 investigations were for:
      - Childrens social care – one
      - Special Educational Needs and Disability (SEND) – three
      - Adult social care – two
      - Highways – one (Housing options – one
      - Revenues and benefits – one
      - Planning – one
    - Where complaints were upheld by the Ombudsman, these related to the availability of preferred services (mainly SEND); delays in providing a service and general communication.
  - There has been a slight increase in the number of children’s social care complaints, from 19 in 2021/22 to 21 in 2022/23. Other points to note about children’s social care complaints include:
    - 2022/23 figures remain almost half of those seen in pre Covid-19 Pandemic levels, of around 40
    - of the 21 complaints received in 2022/23, the proportion that were upheld in full or in part by the Authority, has increased from 10% in 2021/22 to 42% in 2022/23, and
    - the proportion of children’s social care complaint investigations that are resolved early continues to increase – with 96% resolved at Stage One - this is an 8% increase from 2019/20.
  - Adult social care complaints have increased from 29 in 2021/22, to 35 in 2022/23, this remains an overall reduction from pre Covid-19 Pandemic levels of around 40.

- There has been a decrease in the proportion of adult social care complaints upheld in full or in part by the Authority, from 52.5% in 2021/22 to 40% in 2022/23.

### Learning and Improvement

All completed corporate complaints, should capture any lessons learned. Several changes, generated by complaints, were made to procedures and services during the year. The following highlights some of this work; the Authority has:

- produced new guidance to ensure the views of children and families is better captured in assessments
- enhanced the quality of care to vulnerable young people who may need support out of hours, following an incident of crisis
- increased litter bin provision, adding 100 multipurpose bins across the Borough
- introduced 'tree calling cards', as part of the 'neat streets' campaign which are given to customers to update them following a tree inspection or any works carried out nearby
- worked to enhance biodiversity areas as part of the Estate Management Programme, especially on roundabouts throughout the Borough
- introduced new procedures, to ensure a zero-tolerance approach to damp and mould in council homes and properties,
- complied with new requirements from the Housing Ombudsman and its code of practice, embedding these changes into service delivery, and
- reviewed and refreshed its governance framework for complaints and in early 2024, a new complaints management IT system will be introduced which will provide improved information for service teams.

### **3.0 Decision Options**

The following decision options are available for consideration by the Committee:

Committee is not being asked to make a decision in relation to this matter. The Authority's Constitution (May 2023) states that Regulation and Review Committee will 'monitor complaints received by the Authority in respect of the Authority's Corporate Complaints procedures and from the Local Government Ombudsman.'

### **4.0 Appendices**

None

### **5.0 Contact Officers:**

Haley Hudson, Customer Services and Digital Strategy Manager, tel. (0191) 643 7008  
Eilidh Cook, Customer First Office Manager, tel. (0191) 643 5363

## 6.0 Background Information:

6.1 The following background papers have been used in the compilation of this report and are available for inspection at the offices of the author of the report.

- (1) The LGSCO Review of Local Government Complaints July 2023  
<https://www.lgo.org.uk/assets/attach/6437/LG-Review-2022-23-F.pdf>
- (2) The LGSCO Annual Review of Adult Social Care Complaints October 2022  
<https://www.lgo.org.uk/assets/attach/6312/ASC-Review-2021-22-FINAL.pdf>
- (3) Report to Cabinet - We Listen, We Care - Customer Service Programme End of Phase Two Review 17 October 2022  
<https://democracy.northtyneside.gov.uk/documents/s10006/We%20Listen%20We%20Care%20-%20Customer%20Service%20Programme%20End%20of%20Phase%20Two%20Review.pdf>
- (4) The Local Authority Social Services Complaints (England) Regulations 2006 and Guidance (Children)  
<http://www.legislation.gov.uk/uksi/2006/1738/contents/made>
- (5) The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and Guidance (Adults)  
[http://webarchive.nationalarchives.gov.uk/+www.dh.gov.uk/en/SocialCare/DH\\_120361](http://webarchive.nationalarchives.gov.uk/+www.dh.gov.uk/en/SocialCare/DH_120361)
- (6) The NHS Bodies and Local Authorities Regulations 2012  
<http://www.legislation.gov.uk/uksi/2012/3094/introduction/made>

## **PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING**

### **2.1 Finance and Other Resources:**

There are no financial or other resource implications arising directly from this report. The delivery of the service is provided for from existing budget provision. Compensation payments are funded from existing budgets in the relevant service areas.

### **2.2 Legal:**

As a 'responsible body' under the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 the Authority must make arrangements for handling and considering complaints concerning the provision of social services in accordance with the 2009 Regulations.

The Regulations specify what should be included in the complaints handling arrangements and also require the Authority to prepare an annual report for each year which must specify the number of complaints which the Authority has received; the number of complaints which the Authority decided were well-founded and the number of complaints which the Authority has been informed have been referred to the LGSCO and HO.

### **2.3 Consultation/Community Engagement:**

The findings from the Authority's 2022/23 Annual Complaints Report, have been shared with the Authority's Senior Leadership Team and Cabinet Members for Housing, Adult Social Care and Supporting and Protecting Children.

Meetings with senior service management teams across the service areas which are those in the top five areas for complaint, have provided feedback on lessons learned, improvements made and priorities for 2023/24.

The Annual Complaints Report 2022/23 will be considered by Cabinet on 27 November 2023.

Satisfaction surveys are sent to all complainants following the closure of their complaint. Feedback from these surveys is valuable in helping the Authority to improve and enhance the complaint management process. A summary of survey responses can be found in the 2022/23 Annual Complaints Report, Appendix 1, of this report.

The 2022/23 Annual Complaint Report will be published on the Authority's website, if approved by Cabinet.

### **2.4 Human Rights:**

The service promotes equal access to complaint services and opportunities to contribute to service improvement.



## **2.5 Equalities and Diversity:**

The Authority promotes equal access to complaint services and opportunities to contribute to service improvement. Material is available in different formats and officers actively help those with individual needs as required.

Equality monitoring is undertaken so that the Authority can ensure it meets the needs of people with protected characteristics across all of the borough's communities.

## **2.6 Risk Management:**

There are no risk implications directly arising from this report.

## **2.7 Crime and Disorder:**

There are no crime and disorder implications arising directly from this report.

## **2.8 Environment and Sustainability:**

There are no environment and sustainability implications arising from this report.

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