

EXECUTIVE AUTHORITY

Executive Summary

West Midlands Police (WMP) have a duty of care to all personnel and a responsibility to the public to ensure trust and confidence in the integrity of the service.

The aim of this policy is to support West Midlands Police's overall approach to; investigating alleged misconduct, maintaining public trust and confidence in the integrity of its staff, and upholding the standards expected of them.

The objectives of the policy are to;

- Ensure all employees are made aware that the use of these tactics are permissible in the furtherance of the above aim.
- Reassure staff that appropriate safeguards and governance are in place to consider the justification and rights of the individual when authorising such tactics.

Authorised Professional Practice (APP):

- This policy has been checked against APP and there is none in relation to the subject matter of this policy.

Policy Statements:

If the circumstances of the alleged conduct require a criminal investigation the relevant legislation and authority must be adhered to without exception.

- All WMP Counter Corruption Unit staff will be expected to understand the policy and adhere to the procedures outlined within the Process document.
- In some circumstances misconduct by police officers or police staff is such that there is a positive duty to act.
- WMP PSD utilise both reactive and proactive tactics to identify and investigate corruption. One of the primary tactics utilised by WMP PSD is the use of technical and conventional surveillance.
- An authority under this policy applies to covert techniques utilised during the investigation of conduct by police officers and police staff.
- This includes within the workplace and in circumstances outside of the workplace where such conduct relates to:
 - Breach of the Standards of Professional Behaviour as detailed in the:
 - [Code of Ethics](#)
 - [The Police \(Conduct\) Regulations](#)
 - [Police Staff Council Handbook](#)
 - Abuse of pension regulations
 - Abuse of attendance management procedures
 - Workplace/medical integrity
- The term 'workplace' includes any WMP premises/vehicle or any other place where the officer or staff member is required to be during work time or on behalf of the organisation.

- Such investigations are not always easy to detect and may require the use of covert tactics which (in the absence of criminal conduct) would fail to meet the criteria for authorisation through the [Investigatory Powers Act](#).
- This policy sets out the manner in which such techniques may be authorised by way of 'executive' rather than 'statutory' authority.
- All requests for covert authorities where the subject is suspected of being involved in criminality must be made via the relevant investigatory powers.
- An authority will not be granted under this procedure for covert techniques in relation to any activity taking place on residential premises or in a private vehicle.
- However, areas which people could ordinarily be able to view outside of the boundary of the residential premises/vehicle can be included.
- In cases where the subject of investigation might reasonably expect a high degree of privacy or where there are special sensitivities:
 - The fullest consideration must be given
 - Additional information provided during the application process with regard to necessity, proportionality and collateral intrusion.
- In cases relating to occupational health matters, prior to proceedings taking place, the Occupational Health Unit will be consulted to establish whether the activity is compatible with the nature of the illness or disability

COLLATORAL INTRUSION

- It is accepted that, as with any investigative technique, there may be collateral intrusion through surveillance.
- This includes the discovery of sensitive data, personal information and other material not sought as part of the original rationale for the tactic.
- The principle set out in '[The Employment Practices Code](#)' shall be followed which states:

'Disregard and where feasible delete other information collected in the course of monitoring unless it reveals information that no employer could reasonably be expected to ignore'.

HUMAN RIGHTS

- The principles of the [Human Rights Act](#) must be applied when considering such applications, particularly the proportionality of the intrusion sought.
- The use of covert policing techniques, including surveillance, may engage Article 8 – Right to respect for private and family life.
- Members of the police service are notified of restrictions on private life with regards to compliance with:
 - The standards of professional behaviour
 - Membership of unacceptable organisations and
 - The management of business interests.



- Qualified rights may be restricted within the following circumstances:
 - *National security.*
 - *Public safety.*
 - *Economic well-being of the country.*
 - *For the prevention of disorder or crime.*
 - *For the protection of health and morals.*
 - *For the protection of the rights and freedoms of others.*
- The restriction made must be proportionate to the need.
- Therefore, subject to proportionality, restriction of these qualified rights may be necessary to ensure:
 - WMP remains effective and protects the public,
 - WMP maintains high standards of conduct and integrity from its employees
 - The legitimacy and reputation of WMP is protected.

LEGAL FOUNDATION

- The necessity for an authority through investigatory powers for non-criminal investigations into members of the police was explored by the Investigatory Powers Tribunal in [C v The Police and Secretary of State 2006](#) (summary attached in procedural guidance.)
- During the tribunal, the distinction was made between the specific core functions of a public authority (e.g. the prevention and detection of crime) and the ordinary functions of a public authority (e.g. employee relations).
- The Tribunal determined that “the activities of the police in this case were not directed surveillance within [RIPA](#)”, and that “there is no reason for the case of an employee suspected of non-criminal misconduct in relation to civil proceedings or claims to be brought within the RIPA regime”.

Definitions/Acronyms:

WMP – West Midlands Police

RIPA - Regulation of Investigatory Powers Act

CCU – Counter Corruption Unit

Procedural Guidance Documents List:

- C v The Police and Secretary of State 2006 Summary
- Executive Authority Process Procedural Guidance

Publication Instructions:

- Suitable for publication to public



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Any enquiries in relation to this policy should be made directly with the policy author shown above.

Force Executive Approval:

CHIEF CONSTABLE

Monitoring and Review

Version	Date Reviewed	No change / Minor Changes / Major Changes (<i>detail</i>)	Amended / Agreed by	New review date