Guidance for Staff on the need for authorisation for directed surveillance

Is it surveillance?
s48(2) RIPA 2000

Surveillance includes monitoring, observing or listening to persons, their movements, conversations or other activities or communications and also recording anything monitored or the use of a surveillance device.

NO — YES

Is it covert?
s26(9)

Surveillance is covert if and only if it is carried out in a manner that is calculated to ensure that the persons who are subject to the surveillance are unaware that it is or may be taking place.

NO — YES

Is it directed?
s26(2)

Surveillance is directed if it is covert but not intrusive and is undertaken for the purpose of a specific investigation or specific operation and in such a manner as is likely to result in the obtaining of private information about a person otherwise than by an immediate response to events, the nature of which makes it not reasonably practicable for an authorisation to be sought.

Private information includes any information relating to his private or family life.

Is it intrusive?
s26(3) and 48(1) & 8

Surveillance is intrusive if and only if it is covert and carried out in relation to anything taking place on any residential premises or in any private vehicle and involves the presence of an individual on the premises or in the vehicle or by any means of a surveillance device. NB. Local Authorities are NOT able to authorise intrusive surveillance.

Is it lawful?
s28

Surveillance must be necessary:
a) for the purpose of preventing or detecting crime or of preventing disorder
AND
b) (i) for an offence which carries a maximum tariff of at least 6 months' imprisonment
OR
(ii) for a specified offence including alcohol or tobacco

Is it authorised?

The authorisation form must be completed and signed. The authorisation allows the carrying out of directed surveillance of any such description as is specified in the authorisation and which is carried out in the circumstances described in the authorisation and for the purposes of the investigation or operation specified or described in the authorisation. Authorisations must be kept for 6 years.

Has it got Judicial approval?

Authorising Officer must get a magistrate to agree the authorisation

Authorisation is not required

If it does not meet these criteria the surveillance is potentially in breach of the subject's human rights and MUST NOT be conducted