

Internet & Social Media Research & Investigations

Policy

Revision	Revision Date
1.	October 2022
2.	October 2023 No Changes



NORTH
NORFOLK
DISTRICT
COUNCIL

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1. Introduction

- 1.1 Online open source research is widely regarded as the collection, evaluation and analysis of material from online sources available to the public, whether by payment or otherwise to use as intelligence and evidence.
- 1.2 The use of online open source internet and Social Media research is a method of obtaining information to assist North Norfolk District Council with its regulatory and enforcement functions. It can also assist with service delivery issues. However, the use of the internet and Social Media is constantly evolving and with it the risks, particularly regarding breaches of privacy under Article 8 Human Rights Act (HRA) and other operational risks.
- 1.3 North Norfolk District Council is a Public Authority in law under the Human Rights Act 1998, and as such, the staff of the authority must always work within this legislation. This applies to research on the internet.
- 1.4 Researching, recording, storing, and using open source information regarding a person or group of people must be both necessary and proportionate and take account of the level of intrusion against any person. The activity may also require authorisation and approval by a Magistrate under the Regulation of Investigatory Powers Act (RIPA) 2000. To ensure that any resultant interference with a person's Article 8 right to respect for their private and family life is lawful, the material must be retained and processed in accordance with the principles of the General Data Protection Regulations (GDPR).

2. Scope of Policy

- 2.1 This policy and associated procedure establishes North Norfolk District Council's approach to ensure that all online research and investigations are conducted lawfully and ethically to reduce risk. It provides guidance to all staff within the authority, when engaged in their official capacity of the implications and legislative framework associated with online internet and Social Media research. It will also ensure that the activity undertaken, and any evidence obtained will stand scrutiny.
- 2.2 This policy takes account of the Human Rights Act 1998, Regulation of Investigatory Powers Act (RIPA) 2000, Criminal Procedures Investigations Act (CPIA) 1996, General Data Protection Regulations (GDPR), NPCC Guidance on Open Source Investigation/Research.
- 2.3 This policy and associated procedure will be followed at all times and should be read, where required with the RIPA Codes of Practice and any other legislation and relevant North Norfolk District Council policies mentioned in this document. Should there be any queries, advice can be sought from the SRO.

2.4 Not adhering to this policy and procedure could result in members of staff being dealt with through the Council's disciplinary procedure.

2.5 This policy should not be exempt from disclosure under the Freedom of Information Act 2000

3. Risk

3.1 Staff must be aware that any activity carried out over the internet leaves a trace or footprint which can identify the device used, and, in some circumstances, the individual carrying out the activity. This may pose a legal and reputational risk to North Norfolk District Council from being challenged by the subject of the research for breaching Article 8.1 of the HRA which states "Everyone has the right to respect for his private and family life, his home and his correspondence". 8.2 states "There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others".

3.2 There is also a risk of compromise to other investigations, therefore, the activity should be conducted in a manner that does not compromise any current or future investigation or tactics.

4. Necessity / Justification

4.1 To justify the research, there must be a clear lawful reason, and it must be necessary. Therefore, the reason for the research, such as, the criminal conduct that it is aimed to prevent or detect must be identified and clearly described. This should be documented with clear objectives. Should the research fall within RIPA activity, the RIPA authorisation deals with this criterion for it to be lawful.

5. Proportionality

5.1 Proportionality involves balancing the intrusiveness of the research on the subject and other innocent third parties who might be affected by it (collateral intrusion) against the need for the activity in operational terms. What is the benefit to carrying out the activity? how will the benefit outweigh the intrusion?

5.2 The activity will not be proportionate if it is excessive in the circumstances of the case or if the information which is sought could reasonably be obtained by other less intrusive means. All such activity should be carefully managed to meet the objective in question and must not be arbitrary or unfair

6. Private information

- 6.1 Private information is defined in the RIPA Codes of Practice and states it “includes any information relating to a person’s private or family life. Private information should be taken generally to include any aspect of a person’s private or personal relationship with others, including family and professional or business relationships.
- 6.2 Prior to, and during any research, staff must take into account the privacy issues regarding any person associated with the research.

7. Reviewing the Activity

- 7.1 During the course of conducting the internet open source research, the nature of the online activity may evolve. It is important staff continually assess and review their activity to ensure it remains lawful and compliant. Where it evolves into RIPA activity, the RIPA procedure should be followed. If in doubt, seek advice.

8. Use of Material

- 8.1 The material obtained from conducting open source internet and Social Media research may be used as intelligence or evidence.
- 8.2 Any material gathered from the internet during the course of a criminal investigation must be retained in compliance with the Criminal Procedure and Investigations Act (CPIA) Codes of Practice and all material stored in line with the General Data Protection Regulations (GDPR) data retention policy

9. Monitoring and Review of Policy

- 9.1 This policy will be monitored and reviewed where necessary by the SRO for RIPA. The minimum of an annual review will take place.