

SCRUTINY REPORT

CULTURE AND COMMUNITIES SCRUTINY PANEL

23 JULY 2018

Update on Regulation of Investigatory Powers Act (RIPA)

Paul Stephens, Head of Strategy, Information and Governance

Summary

1. The report provides an update to the Panel on the processes the Council has in place to ensure compliance with the Regulation of Investigatory Powers Act 2000 (RIPA).

Introduction

2. The Regulation of Investigatory Powers Act 2000 (RIPA) is the law governing the use of surveillance techniques by public authorities, including local authorities.
3. RIPA was enacted as part of a suite of legislation flowing from the Human Rights Act 1998. The Act requires that when public authorities need to use covert techniques to obtain private information about someone, they only do so if surveillance is necessary, proportionate, and interference with human rights is lawful.
4. For Public Authorities, where a suspected offence could result in a custodial sentence of more than 6 months, or where it is suspected that alcohol or cigarettes are being sold to children, covert surveillance can be undertaken, subject to judicial approval through the Magistrates Court. Surveillance is only undertaken if there are no other measures which can be undertaken to gather the necessary information or evidence to undertake regulatory or enforcement action.
5. In addition, the RIPA legislation is used to access telecommunication data associated with criminality and this is completed on behalf of MBC by the National Anti-Fraud Network (NAFN). Obtaining information through this route is now minimal (only one application in the last three years) as its usefulness has decreased as communication technology has advanced beyond the use of mobile phone networks.

Evidence / discussion

6. The statistics below set out the number of applications the Council has made using RIPA over the last three years, the nature of the surveillance and the reasons why it was undertaken:

<u>Year</u>	<u>Service Area</u>	<u>No. of Applications</u>	<u>Nature of Surveillance</u>	<u>Topic</u>
2015/16	Public Protection-Trading Standards	3	3 x Directed	1 x Copyright Infringement 1 x Counterfeit Goods 1 x Illicit Tobacco Sales
2016/17	Public Protection-Trading Standards	6	6 x Directed	4 x Illicit Tobacco sales 1 x Counterfeit goods 1 x Underage e-cig sales
2017/18	Public Protection-Trading Standards	1	Directed	Counterfeit goods

7. RIPA Authorisations are drafted by officers and are approved by “Authorised Officers” within their Service area. The Act, and associated guidance prescribes how surveillance can be undertaken, the length of time and frequency of review. It is the Authorised Officer’s role to ensure that the application is made in accordance with this Guidance.
8. Within the Trading Standards Service, directed surveillance is mostly carried out in situations where officers have been unable to use other means to collect evidence and information. The surveillance has been directed towards illegal activity at retail premises and domestic properties that are being used to run an illegal business. It has also been used to gather information on illegal activity from social media sites.
9. The RIPA Authorisation is presented to the Magistrates who provide oversight and approval of the Council’s internal processes. Authorisations are reviewed within the Service area on a monthly basis for up to three months. If the RIPA Authorisation has achieved its objective or demonstrated that no evidence would be obtained then it has to be cancelled with immediate effect. At the end of a three-month period the Authorisation can be extended further.
10. A register of RIPA Authorisations is maintained by the Strategy, Information and Governance Service. Audits of the RIPA process are undertaken by the Investigatory Powers Commission. The last audit was carried out in 2015.

Recommendation

11. It is recommended that the Panel notes the content of the report and considers whether it provides sufficient assurance that the Council’s RIPA processes comply with legislative requirements.

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