

Corporate Overview and Scrutiny Management Board

14 February 2018

Report on the Council's use of powers under the Regulation of Investigatory Powers Act 2000 – Quarter 3 - 2017/18



Report of Helen Lynch, Head of Legal and Democratic Services

Purpose of the Report

1. To inform Members about the Council's use of powers under the Regulation of Investigatory Powers Act 2000 ('RIPA') during the period 1 October 2017 until 31 December 2017 (Quarter 3) to ensure that it is being used consistently with the Council's policy and that the policy remains fit for purpose.

Background

2. As Members are aware, the Regulation of Investigatory Powers Act 2000 (RIPA) enables local authorities to carry out certain types of surveillance activity provided that specified procedures are followed. The Local Authority is able to rely upon the information obtained from those surveillance activities within court proceedings.
3. This report gives details of RIPA applications that have been authorised during the period 1 October 2017 until 31 December 2017 and the outcomes following surveillance.

Quarter 3 Activity

4. During Quarter 3 there were 4 new RIPA Directed Surveillance authorisations. These related to operations conducted by Trading Standards regarding test purchases at a number of premises where complaints were being received by the Council about underage sales of alcohol, test purchases from a store to identify counterfeit tobacco products, the sale of fireworks through Facebook profiles and fraudulent dog selling.

5. There were 3 new Covert Human Intelligence Source (CHIS) authorisations, two of which related to RIPA Directed Surveillance for test purchases and sale of fireworks. The third used a covert Facebook profile to identify sellers of counterfeit goods.
6. The Council's Senior Responsible Officer is satisfied that the Council's use of its powers under RIPA during Quarter 3 is consistent with the Council's policy and that the policy remains fit for purpose.

Outcomes following surveillance – Quarter 3

7. In relation to both test purchase operations, non-compliance has been dealt with by way of fixed penalty notices and three premises have been subjected to mediated premises licence reviews. One site has been closed down. One operation non-compliance, in relation to counterfeit tobacco, will be sent to Legal Services for consideration of charges. In relation to firework sales a decision will be made as to whether legal proceedings will be taken against the individuals involved. The fraudulent dog selling case is ongoing, and there are no further details as yet.

Recommendations and Reasons

8. It is recommended that Members receive the quarterly report on the Council's use of RIPA for the period 1 October 2017 until 31 December 2017 and resolve that it is being used consistently with the Council's policy and that the policy remains fit for purpose.

Background Papers

None

Contact: Laura Renaudon

Tel: 03000 269886

Appendix 1: Implications

Finance: None

Staffing: None

Equality and Diversity: None

Accommodation: None

Crime and Disorder: The appropriate use of an oversight of RIPA powers will enable the Council to provide evidence to support appropriate prosecutions and tackle crime.

Human Rights: Use of investigatory powers potentially engages the Human Rights Act 1998 and in particular the qualified right to private and family life under article 8 of the European Convention. This right may only be interfered with in circumstances where it is necessary and proportionate to do so in pursuit of the public interest. Oversight by the Board of the Council's RIPA operations is designed to facilitate compliance with the Human Rights Act.

Consultation: None

Procurement: None

Disability Discrimination Act: None

Legal Implications: The Council's objective is to make lawful and appropriate use of surveillance techniques where required whilst complying with the provisions of the Human Rights Act 1998 and in particular the provisions of Article 8 of the ECHR securing respect for an individual's (qualified) right to privacy. Quarterly oversight by the Board helps secure this objective.