

Corporate Overview and Scrutiny Management Board

1 November 2018

Report on the Council's use of powers under the Regulation of Investigatory Powers Act 2000 – Quarter 1 & 2 - 2018/19



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 April 2018 until 30 June 2018 (Quarter 1) and 1 July 2018 until 30 September 2018 (Quarter 2) 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 periods 1 April 2018 until 30 June 2018 and 1 July 2018 until 30 September 2018 and the outcomes following surveillance.

Quarter 1 & 2 Activity

4. During Quarter 1 there was 1 new RIPA Directed Surveillance authorisation and 1 new Covert Human Intelligence Source (CHIS) authorisation (compared to 2 RIPA and 0 CHIS authorisations in the same quarter for the previous year 2017/18). Both relate to one operation conducted by Trading Standards regarding sales of illicit cigarettes and tobacco. The authorisation related to a single residential address. The Covert Human Intelligence Source (CHIS) authorisation also related to the test purchase of illicit tobacco products from the same residential address.

5. During Quarter 2 there was 1 new RIPA Directed Surveillance authorisation (compared to 2 RIPA authorisations and 0 CHIS applications in the same quarter for the previous year 2017/18). This relates to an operation conducted by Trading Standards regarding supply of illicit tobacco products. This investigation is still active. Sufficient evidence has been gathered in accordance with the RIPA authorisation and the authorisation has now been cancelled.
6. The Council's Senior Responsible Officer is satisfied that the Council's use of its powers under RIPA during Quarter 1 & 2 is consistent with the Council's policy and that the policy remains fit for purpose.

Outcomes following surveillance – Quarter 1 & 2

7. In relation to supply of illicit cigarettes and tobacco in quarter 1, sufficient evidence was gathered as a result of activity undertaken in line with the RIPA authorisation which resulted in the execution of a search warrant. Officers are currently considering whether there is sufficient evidence to prosecute the individual.
8. In relation to supply of illicit tobacco products in quarter 2, sufficient evidence has been gathered for enforcement action. Trading standards are currently progressing with warrant applications.

Recommendations and Reasons

9. It is recommended that members receive the quarterly report on the Council's use of RIPA for the period 1 April 2018 until 30 June 2018 and 1 July 2018 until 30 September 2018 and resolve that it is being used consistently with the Council's policy and that the policy remains fit for purpose.

Background Papers

None

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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.