

**29 April 2014****Agenda Item: 10****REPORT OF THE SERVICE DIRECTOR ACCESS AND PUBLIC  
PROTECTION****UPDATE ON REGULATION OF INVESTIGATORY POWERS ACT (RIPA)****Purpose of the Report**

1. To update Councillors on surveillance activity carried out under the Regulation of Investigatory Powers Act (RIPA).

**Information and Advice**

2. Where it is considered both necessary and proportionate to do so, the Council can undertake covert (secret) surveillance. The Regulation of Investigatory Powers Act 2000 (RIPA) regulates the use of surveillance in relation to certain investigations.
3. The Council's Trading Standards team occasionally undertakes covert surveillance in relation to investigations and as part of its work programme the Community Safety Committee is responsible for keeping an overview.
4. Since statistics were last reported to Policy Committee in November 2013 one directed surveillance application has been approved by the Magistrates Court. The investigation concerned the sale of counterfeit, and potentially unsafe, tobacco products.
5. The surveillance was considered necessary as witness evidence alone was insufficient. It was considered proportionate due to the level of potential harm caused by the products; this is reflected by the potential sanction on conviction of 10 years' imprisonment or an unlimited fine. Intrusion was kept to a minimum as the surveillance was carried out in relation to a business premises with no residential neighbours. Also officers noted their observations in a log rather than filming or taking photographs, and the number of attendances was limited to four. Alternative options such as overt surveillance including use of CCTV were considered, but it was concluded they were not practical options in the circumstances.
6. The outcome of the investigation was that there was insufficient evidence to pursue a prosecution.

7. Since November 2013 communications data, such as information relating to telephone or email accounts (but not the content of communications themselves) has been obtained on 5 occasions. This information has been used in relation to 3 investigations. The outcome of the first investigation was that the person subject to the application was prosecuted, they were given a six month community order, with a supervision requirement. The second and third investigations are still ongoing, these are Scambusters investigations. Scambusters is a regional enforcement and investigation team which is hosted by the County Council. It covers 8 areas around the East Midlands and deals with larger scale Trading Standards issues. As investigations are ongoing it is not possible at this time to provide further details regarding the surveillance operations.

### **Other Options Considered**

8. None, this report is for information only.

### **Reason/s for Recommendation/s**

9. This report is for information only.

### **Statutory and Policy Implications**

10. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the NHS Constitution (Public Health only), the public sector equality duty, safeguarding of children and vulnerable adults, service users, sustainability and the environment and ways of working and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

### **Crime and Disorder Implications**

11. The information obtained through covert surveillance assists the Council's Trading Standards service to discharge its enforcement functions.

### **Human Rights Implications**

12. Each application under RIPA takes human rights implications, such as individuals' right to privacy, into account.

### **Safeguarding of Children and Vulnerable Adults Implications**

13. In discharging its functions effectively the Trading Standards service safeguards individuals against the activities of rogue traders.

### **RECOMMENDATION/S**

- 1) That members consider the surveillance activity undertaken by the Trading Standards

Service under RIPA since November 2013.

**Paul McKay**  
**Service Director Access and Public Protection**

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### **Constitutional Comments**

14. As the report is for noting only no constitutional comments are required.

### **Financial Comments (KAS 14/04/14)**

15. There are no financial implications contained within the report.

### **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

### **Electoral Division(s) and Member(s) Affected**

- All