



REPORT OF THE CHAIR OF COMMUNITY SAFETY COMMITTEE

ANNUAL REPORT ON THE USE OF THE REGULATION OF INVESTIGATORY POWERS ACT

Purpose of the Report

1. To update Policy Committee on activities undertaken by the Council using the Regulation of Investigatory Powers Act.

Information and Advice

2. The Regulation of Investigatory Powers Act 2000 (RIPA) gives the Council the power to undertake covert surveillance in relation to certain investigations. There is a strict authorisation process; applications are considered by senior officers before being considered by the Magistrate's Court for final approval.
3. The current Policy in relation to these powers was approved by Policy Committee in November 2013. No substantive revisions are proposed at the present time.
4. Regular information reports regarding the use of RIPA are submitted to Community Safety Committee as most of the few authorisations sought relate to Trading Standards investigations. In light of the fact that these powers are available across the Council, Policy Committee should receive an annual overview report; this has not always been done as there have been so few authorisations. However it is now considered that to ensure sufficient oversight even a nil return should be reported.
5. Since November 2013 two authorisations for covert surveillance have been submitted to the Magistrate's Court and received approval. These authorisations supported two separate Trading Standards investigations. One was closed due to insufficient evidence to pursue a prosecution. One resulted in entry warrants being executed and the investigation continues.
6. Under the legislation the Council can also gain access to some Communications Data, namely telephone and email account information (but not communications content). Five applications for such data were made to assist investigations. One resulted in a successful prosecution, one is ongoing, two resulted in no information which assisted the investigation, and one was withdrawn before reaching the Magistrates Court when other avenues provided the information required.
7. The communications data figure for 2013 was significantly higher; the Annual Report of the Interception of Communications Commissioner (IOCCO) for 2013 confirmed that

Nottinghamshire used its powers on 58 occasions. Officers consider that there are a couple of reasons for the significant reduction since 2013. Firstly in 2013 there were two significant investigations relating to sale of counterfeit goods via Facebook and EBay that benefitted in particular from obtaining subscriber information. Secondly, the Trading Standards team now prioritises investigations into criminals targeting the vulnerable, rather than counterfeit goods. These types of investigations are less likely to require communications information.

- 8. The National Anti-Fraud Network (NAFN) has processed all communications data requests on behalf of the County Council for some years; however until this year the County Council has been responsible for reporting statistics to the relevant inspector, IOCCO. NAFN is now responsible for reporting all statistics regarding communications data to IOCCO. The County Council remains responsible for reporting to the Office of the Surveillance Commissioner (OSC) regarding directed surveillance.
- 9. Another development since the last report to Policy Committee, is that new Codes of Practice were issued by the Home Office in December 2014 and March 2015. The OSC has also issued updated Procedures and Guidance. These documents are made available as staff guidance together with the Council's own procedural guidance, and support the current Policy of the Council but provide additional support to officers considering the use of RIPA powers.

Other Options Considered

- 10. None, this report is for information only.

Reason/s for Recommendation/s

- 11. To highlight for Policy Committee the limited use of these investigatory powers across the Council.

Statutory and Policy Implications

- 12. 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 services), the public sector equality duty, safeguarding of children and adults at risk, 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

Use of surveillance can assist the Council in relation to the reduction of crime in Nottinghamshire.

Human Rights Implications

Every authorisation for surveillance requires consideration of human rights including the right to privacy and the right to a fair trial. The rights of people under surveillance need to be balanced against public safety and the prevention of crime. This is why every authorisation has to clearly set out why the surveillance is considered necessary and proportionate in the circumstances.

RECOMMENDATION/S

- 1) That Policy Committee notes recent activities undertaken by the Council using the Regulation of Investigatory Powers Act.
- 2) That Policy Committee receives an annual report on the use of powers under the Regulation of Investigatory Powers Act.

Councillor Glynn Gilfoyle
Chair of Community safety Committee

For any enquiries about this report please contact:

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Constitutional Comments (SMG 22/02/2016)

13. The proposals set out in this report fall within the remit of the Policy Committee.

Financial Comments (SES 23/02/16)

14. There are no financial implications arising directly from this 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.

- Nottinghamshire County Council's Regulation of Investigatory Powers Act and Surveillance Policy
- Policy Committee report dated 13 November 2013 is published on the Council's website
- Community Safety Committee reports dated 29 April 2014, 25 November 2014, 24 February 2015, 21 April 2015 and 1 January 2016 are published on the Council's website
- Home Office RIPA Codes of Practice are published at www.gov.uk

Electoral Division(s) and Member(s) Affected

- All