

CABINET
3 MARCH 2020

REGULATION OF INVESTIGATORY POWERS

Responsible Cabinet Member - Councillor Charles Johnson
Resources Portfolio

Responsible Director - Paul Wildsmith, Managing Director

SUMMARY REPORT

Purpose of the Report

1. The purpose of this report is to inform and update Members about issues relevant to the use of the Regulation of Investigatory Powers Act 2000 and developments that have taken place since the last report to Cabinet in September 2019.

Summary

2. The Regulation of Investigatory Powers Act 2000 ("RIPA") enables local authorities to carry out certain types of surveillance activity, as long as specified procedures are followed. The information obtained as a result of surveillance operations can be relied upon in court proceedings providing RIPA is complied with.
3. The Investigatory Powers Act 2016 ("IPA") is the main legislation governing the acquisition of communications data. The information obtained as a result of these acquisitions can also be relied upon in court proceedings providing IPA is complied with.
4. This report gives details of RIPA directed surveillance applications and IPA communications data applications that have been authorised since the last report to Cabinet.

Recommendation

5. It is recommended that Members:-
 - (a) Note the developments that have taken place since September 2019.
 - (b) Receive further reports on the Council's use of RIPA and IPA and other associated issues.

Reasons

6. The recommendations are supported by the following reasons :-

- (a) In order to ensure that the Council complies with the legal obligations under RIPA, IPA and national guidance.
- (b) To help in giving transparency about the use of RIPA and IPA in this Council.

Paul Wildsmith
Managing Director

Background Papers

No background papers were used in the preparation of this report

Amy Wennington : Extension 5466

S17 Crime and Disorder	The appropriate use of and oversight of RIPA and IPA powers will enable the Council to provide evidence to support appropriate prosecutions and tackle crime.
Health and Well Being	There are no specific implications for Health and Well Being
Carbon Impact and Climate Change	There are no issues which this report needs to address
Diversity	The policy treats all groups equally.
Wards Affected	All wards
Groups Affected	All groups equally
Budget and Policy Framework	This does not represent a change to the Council's budget and policy framework.
Key Decision	This is not a key decision
Urgent Decision	This is not an urgent decision
One Darlington: Perfectly Placed	The appropriate use of powers is a legislative requirement.
Efficiency	Clarity about the lawful use of RIPA and IPA will help in the efficient use of the powers.
Impact on Looked After Children and Care Leavers	This report has no impact on Looked After Children or Care Leavers

MAIN REPORT

Information and Analysis

Investigatory Powers Commissioner

7. On 3 October 2019 the Prime Minister announced the appointment of Sir Brian Leveson as the new Investigatory Powers Commissioner (IPC) with effect from 21 October 2019.
8. Sir Brian leads the Investigatory Powers Commissioner's Office (IPCO) and the Office for Communications Data Authorisations (OCDA).
9. Sir Brian Leveson said: "I am delighted to have been appointed as the second Investigatory Powers Commissioner, following all of the work in setting up and organising the offices which Lord Justice Fulford has so ably undertaken. I wish him well in his new role as Vice-President of the Court of Appeal (Criminal Division). The authorisation and inspection responsibilities of IPCO and OCDA are critical to ensuring public confidence in the use of investigatory powers. I look forward to working with the Judicial Commissioners, the Inspectors and everyone else across IPCO and OCDA, all of whom have done so much to achieve the success that is already evident."
10. More than 600 public bodies have authority to use the powers, including the intelligence agencies, police forces and local authorities.
11. IPCO is responsible for the authorisation and oversight of investigatory powers. The IPC, together with a team of Inspectors and Judicial Commissioners, ensures that the powers are used in the public interest and in accordance with the law.
12. The Judicial Commissioners are retired senior judges, selected to support the IPC by reviewing warrant applications. The IPCO inspectors are responsible for the inspection of how investigatory powers have been used by public bodies.
13. Under the provisions in the Investigatory Powers Act (2016), three organisations were merged to form IPCO in 2017: the Office of the Surveillance Commissioners (OSC), the Interception of Communications Commissioner's Office (IOCCO) and the Intelligence Service Commissioner's Office (ISComm).
14. This Council is yet to be inspected under the new IPCO regime; our last inspection having taken place in October 2016 under the old OSC organisation. It therefore remains to be seen how the process will differ under the new Inspectors.

Training - Update

15. Training sessions were held during August and September 2019 for staff in service areas that use or may need to consider using RIPA. The training was delivered by the Principal Lawyer (Litigation).
16. In addition, all of the designated Authorising Officers and members of the Chief Officers Executive and Chief Officers Board received refresher RIPA training. This training was delivered by the Assistant Director, Law and Governance.

Bi-Annual Report

Directed Surveillance Authorisations

17. There have been no authorisations granted since the last Cabinet Report.

Communications Data Authorisations

18. There have been no authorisations granted since the last Cabinet Report.