

Changes to the Use of Covert Surveillance by Local Authorities

The Regulation of Investigatory Powers Act 2000 (RIPA) gives local authorities powers to use directed surveillance or covert human intelligence sources.

At the present time under RIPA senior managers within local authorities can authorise such methods of surveillance where their use is necessary "for the purpose of preventing or detecting crime or preventing disorder"

From 1st November 2012, authorising officers may not approve directed surveillance unless it is for the purpose of preventing or detecting a criminal offence and it meets the conditions set out in article 7A(3)(a) or (b) of the Regulation of Investigatory Powers Act (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 as amended.

Those conditions are that the criminal offence which is sought to be prevent or detected is punishable, whether on a summary conviction or on an indictment, by a maximum term of at least 6 months imprisonment, or would constitute an offence under the sections 146, 147 or 147A of the Licensing Act 2003 or S7 of the Children and Young Persons Act 1933. These are all offences involving sale of tobacco and alcohol to children.

Introducing a 6 month imprisonment test will mean that directed surveillance is no longer an option for local authorities when investigating "minor offences" such as dog fouling and littering.

In addition to the above The Protection of Freedoms Act 2012 which recently received royal assent requires local authorities to have all their RIPA surveillance authorisations (I.E- use of directed surveillance and covert human intelligence sources, and the acquisition of communication data) approved by a Magistrate Court before they take effect.

The changes mean that although authorisations to carry out directed surveillance or use of covert human intelligence sources is still available , it can only be given in respect of the prevention or detection of certain crimes (those that carry 6 months or more imprisonments or sale of alcohol or cigarettes to those under age)

In addition there is now a requirement to go to the Magistrate Court first.

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