

Request – FOI 5947

1. I would like a breakdown of the council's use of the Regulation of Investigatory Powers Act 2000 for the last three years please.

I would like to know how many times powers given by the act have been used.

2. I would like to know for what purpose they were used. I would like this to be more than a two word explanation though please. So instead of just "benefits cheat" you provide a brief outline of the case they were used in, ie, suspected benefits cheat where woman was believed to have fraudulently claimed £40,000.
3. I would also like to know the outcome of the surveillance, ie, were any criminal prosecutions brought as a result.
4. I would like to know how many covert surveillance operations you have carried out using RIPA.

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Birmingham City Council, like other local authorities, uses RIPA to investigate alleged criminal activity, including serious fly-tipping or illegal dumping of waste, benefit fraud investigations and trading standards and counterfeiting. The use of RIPA is a last resort, and is only used when less intrusive methods of obtaining evidence can not be used.

We are committed to putting citizens first and use whatever powers are available to the Council and where the exercise of such powers are appropriate, to catch rogue traders, doorstep criminals and scam artists who prey on some of the most vulnerable in our society.

The Council is recognised as an exemplar of national best practice in this area, using these powers only when necessary and proportionate. In order to be transparent, Birmingham City Council has placed its RIPA code of practice on the Birmingham.gov.uk web site.

In addition to the investigations undertaken in respect of investigations relating to incidents in Birmingham, Birmingham City Council is also administratively responsible for the national Illegal Money Lending Team. This means that RIPA legislation used on cases in these areas is signed off by Birmingham City Council's legal services team.

- 1. I would like a breakdown of the council's use of the Regulation of Investigatory Powers Act 2000 for the last three years please.**

I would like to know how many times powers given by the act have been used.

Please see attached excel spread sheet.* This information is from January 2008 to August 2011, slightly over the 3 year period you requested, the information for each application is taken from the council's corporate database which logs and records RIPA applications by calendar month.

- 2. I would like to know for what purpose they were used. I would like this to be more than a two word explanation though please. So instead of just "benefits cheat" you provide a brief outline of the case they were used in, i.e, suspected benefits cheat where woman was believed to have fraudulently claimed £40,000.**

Your request for details of the investigation would be sufficient to potentially allow the identification of the individual. This is deemed to be sensitive personal data, as the information relates to alleged criminal activity, and under s.40 of the Freedom of Information Act, personal data is exempt from disclosure. S.40 is an absolute exemption, and therefore does not require consideration of the public interest in disclosure.

Accordingly, Birmingham City Council will only provide a brief summary of the offence being investigated, rather than the requested outline of the case.

- 3. I would also like to know the outcome of the surveillance, i.e. were any criminal prosecutions brought as a result.**

The corporate database does not record the final outcome in relation to each case, i.e, whether a subsequent prosecution or other sanction resulted from the investigation. This information is held in the individual case files held by the service area carrying out the investigation.

The time involved in locating the information you have requested in respect of the outcome of the case will easily exceed the 18 hours set out by the Data Protection and Freedom of Information (Appropriate Limits and Fees) regulations 2004. As you will note, there have been over 250 investigations in which RIPA has been utilised. To locate the information you have requested in relation to the outcome of the investigation and/or any prosecution, it would take over 40 hours to locate and collate the information requested. This is based on a de-minimis estimate that it would take approximately 10 minutes to locate the files, retrieve them from archive and go through the file to locate the information requested.

You will be aware that this information would be gathered for the purposes of conducting investigations, with a view to bringing prosecutions against individuals for various criminal offences and, as such, some of the information may still be sensitive for the purposes of ongoing investigations and prosecutions. There is a potential risk that the information requested could potentially prejudice any ongoing investigation or any prosecutions.

Section 30 of the Freedom of Information Act provides that:

“1. Information held by a public authority is exempt information if it has at any time been held by the authority for the purposes of -

(a) any investigation which the public authority has a duty to conduct with a view to it being ascertained: -

(i) whether a person should be charged with an offence, or

(ii) whether a person charged with an offence is guilty of it,

(b) any investigation which is conducted by the authority and in the circumstances may lead to a decision by the authority to institute criminal proceedings which the authority has power to conduct, or

(c) any criminal proceedings which the authority has power to conduct”

Section 31 of the Freedom of Information Act provides that:

“1. Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice-

(a) the prevention or detection of crime,

(b) the apprehension or prosecution of offenders,

(c) the administration of justice,”

Both these exemptions are qualified exemptions and thus require a review of the public interest.

Birmingham City Council considers that there are strong public interests in the public being able to scrutinise the local authority's use of powers especially where these could infringe the human rights of individuals.

However, we consider that the disclosure of an individual case commentary on the surveillance would not be in the public interest, in so far as the information disclosed could potentially be detrimental to ongoing investigations both being undertaken by Birmingham

City Council and also being undertaken by partner organisations, e.g. DTI or West Midlands Police, as well as potentially prejudicing any subsequent prosecutions.

4. I would like to know how many covert surveillance operations you have carried out using RIPA.

Birmingham City Council has not undertaken any covert surveillance operations over the last 3 years.

** Due to the volume of documents contained within this response, it has not been possible to publish all the documents on our website. If you require further information on this, please contact the Corporate Information Governance Team quoting the request reference number.*

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