

Misconceptions about RIPA

Misunderstandings about RIPA and its use - your questions answered.

RIPA is an anti-terrorism legislation

It's not. RIPA legislates for and regulates the use of a range of covert techniques for a range of purposes. The more intrusive of these powers (such as interception) are limited to law enforcement and intelligence agencies and can be used to investigate serious crime as well as terrorism.

Other less intrusive powers such as directed surveillance or access to communications data can be used by a greater number of public authorities for a wider range of purposes, including the prevention and detection of crime generally.

Local authorities and councils are wrongly using anti-terrorism powers

Recent stories in the media have often misrepresented RIPA and what parliament agreed that local authorities can do under the legislation. Parliament gave permission to a range of public authorities to use covert investigatory powers under RIPA, where they need them to carry out their statutory functions.

Under RIPA, local authorities are able to use a far more restricted range of investigatory techniques than intelligence and law enforcement agencies.

They are limited to using the least intrusive types of communications data; directed surveillance (which means covert surveillance in public places) and covert human intelligence sources (such as informants), and only for detecting or preventing crime and preventing disorder where it is necessary and proportionate for them to do so.

For example, trading standards departments are responsible for investigating and prosecuting rogue traders and other scams. Local authorities also deal with people who are claiming housing benefits which they are not entitled to, in other words, people who commit benefits fraud. It is for individual authorities to decide in each case whether it is necessary and proportionate to make use of the powers in the specific circumstances.

Local authorities cannot carry out intrusive surveillance, or seek warrants for interception. Nor are they able to access the most intrusive form of communications data, namely traffic data.

RIPA powers can be used by local councils on 'trivial matters'

There are strict rules to protect people from unnecessary or inappropriate intrusion and any use of the powers must be both necessary and proportionate to the crime being investigated. Where individuals believe powers have been used inappropriately, they can take their case to the Investigatory Powers Tribunal.

The Local Government Association and the Communities and Local Government Minister have each written to all local councils to ensure that their use of RIPA powers is necessary and proportionate as required by the legislation.

The Home Office and the Department for Communities and Local Government are working together to ensure all local authorities have a good understanding of RIPA and circumstances when it would be appropriate and when it would not be appropriate to use covert surveillance.

During 2009, the Home Office will be issuing a revised code of practice on the use of directed and intrusive surveillance for public consultation. This will then be considered by parliament before replacing the existing code.

Confusion over the difference between interception and communications data

Many stories in the media confuse interception (for example, listening to someone's telephone conversations or reading an e-mail or letter) which can only be conducted by law enforcement and intelligence agencies with a Secretary of State warrant, with access to communications data (eg subscriber details or billing information) which is available to a wider number of public authorities.

RIPA is another example of the erosion of our privacy and civil liberties

RIPA is a pro-human rights law that, rather than 'giving' powers, controls activities that need to be regulated. It puts in place the proper mechanism to consider the key issues of necessity and proportionality. In fact, it did not create any new powers or techniques at all; nor did it permit any public authority to use powers which it could not have used prior to RIPA.