



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 3

AUTHORISATIONS FOR OBTAINING COMMUNICATIONS DATA

Additional protections

- 77 Commissioner approval for authorisations to identify or confirm journalistic sources**
- (1) Subsection (2) applies if—
- (a) a designated senior officer has granted an authorisation [^{F1}under section 61 or 61A] in relation to the obtaining by a relevant public authority of communications data for the purpose of identifying or confirming a source of journalistic information, and
 - (b) the authorisation is not necessary because of an imminent threat to life.
- [^{F2}(1A) Subsection (2) also applies if—
- (a) a person to whom functions under section 60A have been delegated under section 238(5) has granted an authorisation under that section in relation to the obtaining by a relevant public authority of communications data for the purpose of identifying or confirming a source of journalistic information, and
 - (b) the authorisation is not necessary because of an imminent threat to life.]
- (2) The authorisation is not to take effect until such time (if any) as a Judicial Commissioner has approved it.
- (3) The relevant public authority for which the authorisation has been granted may apply to a Judicial Commissioner for approval of the authorisation.
- (4) The applicant is not required to give notice of the application to—
- (a) any person to whom the authorisation relates, or
 - (b) that person's legal representatives.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Investigatory Powers Act 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (5) A Judicial Commissioner may approve the authorisation if, and only if, the Judicial Commissioner considers that—
- (a) at the time of the grant, there were reasonable grounds for considering that the requirements of this Part were satisfied in relation to the authorisation, and
 - (b) at the time when the Judicial Commissioner is considering the matter, there are reasonable grounds for considering that the requirements of this Part would be satisfied if an equivalent new authorisation were granted at that time.
- (6) In considering whether the position is as mentioned in subsection (5)(a) and (b), the Judicial Commissioner must, in particular, have regard to—
- (a) the public interest in protecting a source of journalistic information, and
 - (b) the need for there to be another overriding public interest before a relevant public authority seeks to identify or confirm a source of journalistic information.
- (7) Where, on an application under this section, the Judicial Commissioner refuses to approve the grant of the authorisation, the Judicial Commissioner may quash the authorisation.

Textual Amendments

- F1** Words in s. 77(1)(a) inserted (5.2.2019) by [The Data Retention and Acquisition Regulations 2018 \(S.I. 2018/1123\)](#), reg. 1(4)(d)(5), [Sch. 1 para. 17\(2\)](#) (see S.I. 2019/174, reg. 2(c))
- F2** S. 77(1A) inserted (5.2.2019) by [The Data Retention and Acquisition Regulations 2018 \(S.I. 2018/1123\)](#), reg. 1(4)(d)(5), [Sch. 1 para. 17\(3\)](#) (see S.I. 2019/174, reg. 2(c))
-

Commencement Information

- I1** S. 77 in force at 5.2.2019 by [S.I. 2019/174](#), [reg. 2\(d\)](#)

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Investigatory Powers Act 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 58(4)(e) inserted by [2023 c. 41 Sch. 13 para. 9](#)