

HERTFORDSHIRE COUNTY COUNCIL**COMMUNITY SAFETY & WASTE MANAGEMENT CABINET PANEL****MONDAY 6 JULY 2015 AT 10.00 AM****REGULATION OF INVESTIGATORY POWERS (RIPA): ANNUAL REPORT**Report of the Chief Legal Officer

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Executive Member: - Richard Thake, Community Safety & Waste Management

1. Purpose of report and Summary

- 1.1 To inform Members of the use of Regulation of Investigatory Powers Act (RIPA) within Hertfordshire County Council over the past year; to highlight any deviations from policy; and to provide details of any internal and external inspections and audits which have taken place. This will allow Members to undertake a review of the Authority's use of RIPA.
- 1.2 To obtain the Cabinet's agreement for the continued use of policies on:
 - (a) Directed Surveillance and Covert Human Intelligent Sources; and
 - (b) Acquisition and Disclosure of Communications Data from communication service providers.
- 1.3 The policies are annexed at Appendices A and B to this report.
- 1.4 The report covers the period 1 April 2014 – 31 March 2015. This is the annual report to Members.

2. Recommendations

- 2.1 The Community Safety and Waste Management Cabinet Panel recommend that the Cabinet approve the continued use of the policies on:
 - (a) Directed Surveillance and Covert Human Intelligent Sources (Appendix A); and
 - (b) Acquisition and Disclosure of Communications Data from communication service providers (Appendix B).

3. Background

- 3.1 The Regulation of Investigatory Powers Act 2000 (the Act) regulates covert investigations and the acquisition and disclosure of communications data from communication service providers by a number of bodies, including local authorities. It was introduced to ensure that 'individuals' rights are protected, while also ensuring that law enforcement and security agencies have the powers they need to do their job effectively.
- 3.2 The County Council has separate policies on covert investigations and the acquisition and disclosure of communications data. These require Members to consider internal reports on the use of RIPA on at least an annual basis, to ensure that it is being used consistently with the Council's policy and that the policy remains fit for purpose
- 3.3 On the 1 November 2012 the Protection of Freedoms Act came into force. It requires that, following internal authorisation, further independent scrutiny is made of applications for covert investigations and the acquisition and disclosure of communications data. These applications are put before a Justice of the Peace for judicial approval.

4. Use of RIPA for Covert Surveillance

- 4.1 In the year April to March 2014 / 2015 Hertfordshire County Council's use of RIPA for surveillance purposes was as follows:

(a) Directed Surveillance

The number of directed surveillance authorisations granted during the period was 6. There were:

- 3 alcohol / tobacco test purchasing exercises.
- 1 surveillance of Facebook relating to counterfeit goods at a market.
- 1 counterfeit wheels test purchase exercise.
- 1 surveillance of vehicles related to counterfeit goods at a market.

(b) Covert Human Intelligence Sources (CHIS)

The number of CHIS recruited during the period was 0 (zero); the number who ceased to be used during the period was 0 (zero); and the number of active CHIS at the end of the period was 0 (zero).

(c) Breach in procedures

The number of breaches identified under each category of authorisation (Directed Surveillance and CHIS) was 0 (zero).

4.2 There was an inspection by the Chief Surveillance Commissioner's Office. This took place on 26th November 2014 and was conducted by Sir David Clarke. The Inspection Report was issued in early December and in the covering letter Sir Christopher Rose, the Chief Surveillance Commissioner, commented that the Council has a generally sound RIPA structure, policy and procedures and committed senior management and that Guy Pratt, Head of Trading Standards, is clearly committed to the maintenance of high standards. Sir David Clarke made five recommendations in his Inspection Report as follows:

(a) the Council's RIPA procedure document (which assists officers in the practical application of the RIPA) be amended;

(b) a training needs analysis be conducted to assess the general awareness of RIPA throughout the Council and that training be provided accordingly;

(c) care be taken in the accuracy of authorisation forms and central record of authorisations;

(d) considered reasons for authorisation decisions be clearly recorded;

(e) bespoke review forms be used.

4.3 The recommendations set out above have been accepted and are being implemented by officers.

5. Use of RIPA for the Acquisition and Disclosure of Communications Data

5.1 In the year April to March 2014/2015, Hertfordshire County Council's use of RIPA for obtaining communications data was as follows:

(a) Applications for communications data: 2.

There were requests for 7 data items (e.g. separate telephone numbers, I.P. addresses).

2 x cold call re home maintenance, misleading statements.

(b) Applications rejected: 0

5.2 Our use of NAFN, the National Anti-Fraud Network, who process our (and other Authorities) applications for communications data, means

that no inspections of our service in Hertfordshire, requesting communications data, will be made. Our applications will form part of any audit made of NAFN. No adverse comments, regarding our service, following any inspection of NAFN, were made, within the period.

6. Financial Implications

6.1 There are no financial implications resulting from this report.

7. The Benefits of RIPA to Hertfordshire County Council

7.1 Any restriction in the use of RIPA would have a severe adverse impact on the work of the County Council.

7.2 RIPA authorisations are an integral part of the authority's enforcement work, enabling the detection and prevention of crime, providing a cornerstone in building safer and stronger communities.

7.3 Some of the successes for the authority following RIPA authorisations in the year April to March 2014 / 2015 are:

Directed Surveillance:

3 of the 6 authorisations for Directed Surveillance were for Alcohol / tobacco test purchases. In the period there were two alcohol test purchase failures which resulted in;

- One report for prosecution.
- One investigation.

Although we had no tobacco test purchase failures, our alternative enforcement action for those businesses that have made a sale of tobacco to a minor for the first time of attending an Age Restricted Sales training course is still an option. The cost is £50 chargeable to the trader. This has enabled the Council to offer an alternative to investigation which provides help to the first time offender, reduces time spent on investigation and allows officers to concentrate resources on the more serious breaches.

The other three authorisations have provided evidence and information that has led to two major prosecutions for Trade Mark and Fraud offences that are currently being heard in the Crown Court.

Communications data

The two authorisations for communications data initially allowed the authority to pursue a rogue trader investigation where telephone numbers were the only means of initially identifying such traders. Unfortunately we were unable to progress the investigation this time as the information gathered was inconclusive.