

HERTFORDSHIRE COUNTY COUNCIL

**COMMUNITY SAFETY & WASTE MANAGEMENT
CABINET PANEL**

FRIDAY 1 JULY 2016 AT 10 AM

Agenda Item No.

8

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 (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 (Appendix A); and
 - (b) Acquisition and Disclosure of Communications Data from communication service providers (Appendix B).
- 1.3 The policies are annexed to this report.
- 1.4 The report covers the period 1 April 2015 – 31 March 2016. This is the annual report to Members.

2. Recommendations

The Community Safety and Waste Management Cabinet Panel recommend:

- 2.1 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 2015 / 2016 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 2. There were:

One alcohol test purchasing exercise and one investigation of the telephone sales techniques of a local business.

(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 The following actions are ongoing to enable high standards to be maintained:

- (a) The Council's RIPA procedure documents (which assists officers in the practical application of RIPA) are reviewed annually and updated as necessary;
- (b) RIPA training continues to be made available;
- (c) Authorisation forms and central record of authorisations are accurately recorded, using considered reasons for authorisation decisions and bespoke review forms;
- (d) A new policy is in the process of being drafted to detail the use of social media in investigations.

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

5.1 In the year April to March 2015/2016, Hertfordshire County Council's use of RIPA for obtaining communications data was as follows:

- (a) Applications for communications data: 1.

In connection with an investigation into the activities of a builder

- (c) 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 to Hertfordshire County Council and use of RIPA

- 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 The use of RIPA across the authority is at present at a fairly minimal level, and has reduced compared to a few years ago. This reduction is considered to be due to improved awareness of consumers particularly around rogue traders, and the fact that all rogue trader incidents are responded to within 24 hours, which means often that any investigation is able to much more current, and the use of RIPA less necessary.
- 7.4 Some of the successes for the authority following RIPA authorisations in the year April to March 2015 / 2016 are:

Directed Surveillance:

There were 6 premises visited under the authorisation for alcohol test purchasing. These visits were based on intelligence. 3 of the 6 visits resulted in a sale to the underage volunteer. The 3 traders concerned were advised in writing. They were not prosecuted as there had not been any previous test purchase failures. This is in consistent with previously agreed enforcement action for age restricted products.

Our alternative enforcement action for those businesses that have contravened underage sales laws for the first time is for the trader to attend an Age Restricted Sales training course. 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. This has not been used in 2015/2016.

The other authorisation resulted in a business receiving written advice to close the investigation.

Communications data

The authorisation for communications data initially allowed the authority to pursue a rogue trader investigation where telephone numbers were a potential means of initially identifying the traders. Unfortunately the information gathered was inconclusive. However, the report was

concluded and although the identity of the trader may still be disputed, other evidence may be used to prosecute.