

HERTFORDSHIRE COUNTY COUNCIL

**COMMUNITY SAFETY & WASTE MANAGEMENT CABINET PANEL
TUESDAY 27 JUNE AT 2.00PM**

REGULATION OF INVESTIGATORY POWERS (RIPA) ANNUAL REPORT

Report of the Chief Legal Officer

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Executive Member: Terry Hone, Community Safety & Waste Management

1. Purpose of report

- 1.1 To inform Members of the use of the Regulation of Investigatory Powers (RIPA) within Hertfordshire County Council over the past year.
- 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.

2. Summary

- 2.1 A report is produced on an annual basis to Members to inform them of The use of RIPA within the County Council and to obtain agreement to the confirmed use of the Council's RIPA policies.
- 2.2 The Council's RIPA policies for approval by Members are annexed at Appendices A and B to this report.
- 2.3 Minor changes have been made to correct typographical / formatting errors in the Surveillance Procedure. The Communications Procedure has been rewritten to reflect current practice and the use of the National Anti-Fraud Network (NAFN).
- 2.4 This report covers the period 1 April 2016 – 31 March 2017.

3. Recommendations

3.1 The Community Safety and Waste Management Cabinet Panel recommend:

That 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).

4. Background

- 4.1 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.
- 4.2 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.

5. Use of RIPA for Covert Surveillance

5.1 In the year April 2016 to March 2017 the use of RIPA for surveillance purposes was as follows:

- (a) Directed Surveillance
The number of directed surveillance authorisations granted during the period was one. This was for a test purchasing exercise (of alcohol).
- (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).

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

- 6.1 In the year April 2016 to March 2017 the use of RIPA for obtaining communications data was as follows:

- (a) Applications for communications data: 2

One application was in connection with an investigation into the activities of an importer of counterfeit clothing and the other related to the illegal use of colours in food

- (b) Applications not proceeded with: 1

(The application which was not proceeded with was subject to a recordable error report from the National Anti-Fraud Network (NAFN) as the application contained a factual error and also it did not sufficiently identify potential collateral intrusion (the risk of obtaining private information about persons who are not the subject matter) as the relevant mobile phone number was also associated with the suspect's wife. Steps have been taken to minimise the risk of similar errors occurring in the future)

- 6.2 NAFN is used to process the Council's applications for communications data. This means that no inspections of the service in Hertfordshire, requesting communications data, will be made. NAFN will continue to vet individual applications and the Council's applications will form part of any audit made of NAFN.

7. General Matters

- 7.1 The Council has RIPA policy documents on 'Directed surveillance and use of covert human intelligence sources' and the 'Acquisition and disclosure of communications data from communication service providers'. These policy documents are put into practice through associated RIPA procedure documents in each area. These procedure documents assist officers in the practical application of RIPA. All four documents are reviewed and updated as necessary on an annual basis. The updated Communications Procedures for 2017 allows for additional enforcement staff to have responsibility for accessing communications data subject to built in scrutiny through advanced notice to Legal Services.

- 7.2 RIPA understanding across the County Council continues to be assessed and training is made available accordingly. During 2016 /17 every Directorate Board received RIPA training, with subsequent follow-up training being given to identified managers and Heads of Service. For 2017/18 an e-learning package is being to be produced and will be uploaded onto the intranet.
- 7.3 It is recognised that there is a need to have a social media policy and for 2017/18 a Policy document and linked Procedure document will be produced and brought back to members for approval.
- 7.4 The legislation surrounding RIPA has recently expanded with 'The Investigatory Powers Act 2016' ('the 2016 Act'). The 2016 Act has yet to come fully into force, and relevant documents will be updated as the 2016 Act does so. Changes brought about by the 2016 Act include:
- An Investigatory Powers Commission will be created to oversee the use of all investigatory powers.
 - Fire and Rescue Services will be allowed to see Internet connection records, as part of a targeted and filtered investigation, without a warrant
 - Local government will keep some investigatory powers but will not be able to have access to Internet connection records

8. The Benefits of RIPA to Hertfordshire County Council

- 8.1 RIPA authorisations form an essential tool for County Council Services, particularly Trading Standards, and any restriction in the use of RIPA would have a severe adverse impact on the work of the Council.
- 8.2 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.
- 8.3 The other outcomes for the authority following RIPA authorisations in the year April 2016 to March 2017 are:

Directed Surveillance

One shop was visited under the authorisation for alcohol and tobacco test purchasing, based on intelligence. An underage volunteer was refused in their attempts to make a purchase.

Communications data

The authorisation granted for communications data is related to a food supplier and confirmed that the address details required on the

packaging of a food there are concerns with, are not genuine. Investigations are on-going.

9. Financial Implications

9.1 There are no financial implications resulting from this report.

10. Equalities

- 10.1 When considering proposals placed before Members it is important that they are fully aware of, and have themselves rigorously considered the equalities implications of the decision that they are taking.
- 10.2 Rigorous consideration will ensure that proper appreciation of any potential impact of that decision on the County Council's statutory obligations under the Public Sector Equality Duty. As a minimum this requires decision makers to read and carefully consider the content of any Equalities Impact Assessment (EqIA) produced by officers.
- 10.3 The Equality Act 2010 requires the Council when exercising its functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and other conduct prohibited under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics under the Equality Act 2010 are age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief, sex and sexual orientation.
- 10.4 No Equalities Impact Assessment (EqIA) was undertaken in relation to this matter as the review and subsequent minor amendment of the Policies did not constitute the need.

Background Documents

Regulation of Investigatory Powers Act 2000:

http://www.legislation.gov.uk/ukpga/2000/23/pdfs/ukpga_20000023_en.pdf

Appendix A: Directed Surveillance and Covert Human Intelligent Sources
Appendix B: Acquisition and Disclosure of Communications Data from communication service providers

Are attached as separate documents