

To: Governance & Audit Committee

From: Mike Hill, Cabinet Member, Customer & Communities
Amanda Honey, Corporate Director, Customer & Communities

Date: 19 December 2012

Subject: RIPA report on surveillance, covert human intelligence source and telecommunications data requests carried out by KCC between 1 April 2012 – 30 September 2012

Classification: Unrestricted

FOR ASSURANCE

Summary This report outlines work undertaken by KCC Officers on surveillance, the use of covert human intelligence source (CHIS) and access to telecommunications data governed by the Regulation of Investigatory Powers Act 2000 (RIPA) during the first half of the 2012/13 business year.

It also sets out changes necessary to the KCC policy to meet the requirements of the Protection of Freedoms Act 2012 with effect from 1 November 2012.

1. Background

- 1.1. The document sets out the extent of Kent County Council's use of covert surveillance, covert human intelligence sources and access to telecommunications data. The County Council wishes to be as open and transparent as possible, to keep senior officers informed and to assure the public these powers are used only in a 'lawful, necessary and proportionate' manner.
- 1.2. To achieve transparency and in accordance with the Codes of Practice, an annual report outlining the work carried out is submitted by the Senior Responsible Officer (SRO) to an appropriate Committee. The last report (for 2011 and the first 3 months of 2012) was submitted and approved by Governance and Audit Committee on 26 July 2012.

2. What this report covers

- 2.1 Covert Surveillance – intended to be carried out without the person knowing and in such a way that it is likely that private information may be obtained about a person (not necessarily the person under surveillance). Local authorities are only permitted to carry out certain types of covert surveillance and for example cannot carry out surveillance within or into private homes or vehicles (or similar "bugging" activity).
- 2.2 Covert Human Intelligence Source (CHIS) – the most common form is an officer developing a relationship with an individual without disclosing that it is being done on behalf of the County Council for the purpose of an investigation. In most cases this would be an officer acting as a potential

customer and talking to a trader about the goods / services being offered for sale. Alternatively, a theoretical and rare occurrence would be the use of an 'informant' working on behalf of an officer of the Council. In such cases, due to the potential increased risks, KCC has agreed an MOU with Kent Police.

- 2.3 Access to telecommunications data – Local authorities can have limited access to data held by telecommunications providers. Most commonly this will be the details of the person or business who is the registered subscriber to a telephone number. Local authorities are not able to access the content of communications and so cannot “bug” telephones or read text messages.
- 2.4 In each of the above scenarios an officer is required to obtain authorisation from a named senior officer before undertaking the activity. This decision is logged in detail, with the senior officer considering the lawfulness, necessity and proportionality of the activity proposed and then completing an authorisation document. For surveillance and Chis this document is then held on a central file. There is one central file for KCC, held on behalf of the Corporate Director Customer and Communities, which is available for inspection by the Office of the Surveillance Commissioners. For telecommunications authorisations KCC uses the services of the National Anti Fraud Network to manage applications and keep our records. This was on the advice of the Telecommunications Commissioner.

3. RIPA work carried out between 1 April – 30 September 2012

- 3.1. Total number of authorisations granted (figure for same period in 2011) :

Surveillance – 10 (15)

6 of these authorisations relate to the selling of counterfeit goods using the social media site internet sites. Guidance from the Commissioner is that authorisation should be sought where we are accessing these sites covertly for enforcement purposes. As a result of these authorisations, 5 arrests have been made and over 13,000 counterfeit items have been seized.

Covert human intelligence source (CHIS) – 7 (5)

All of these authorisations relate to officers taking the role of customer in a purchase of illegal goods. Some are linked to the same operations where surveillance was carried out. One of particular interest was in relation to the sale of counterfeit vehicle maintenance software. This is the software used by garages to know how to service a car and what safety recalls are due. The counterfeit version does not contain the correct information and could, therefore, put road safety at risk.

Access to telecommunications data – 23 (23)

The majority of these authorisations are for either the sale of counterfeit goods or doorstep frauds.

In relation to the counterfeit goods, many of the authorisations are linked to those enquiries where surveillance and CHIS work was also authorised. This

demonstrates that, although there will only be one registered outcome, several authorisations are necessary to achieve this.

In relation to the doorstep frauds, many of the enquiries are ongoing. At the present time 3 arrests have been made and some cases are with Legal Services with a view to reaching a decision in relation to prosecution. One case involves a fraud of over £45000 and another a case where the victim was assaulted, possibly by the perpetrator of the fraud.

Included in these figures are 1 surveillance authorisation and 3 telecommunications authorisations for the Clean Kent Team.

4. Protection of Freedoms Act 2012

- 4.1 On 1 November 2012 the Protection of Freedoms Act came into force meaning that a new system of judicial approval for local authority use of RIPA came into force. This will involve seeking an order from a Magistrate each time an authorisation is granted. KCC's RIPA policy has been updated to reflect this change.
- 4.2 The new policy does not change the way in which, or purposes for which KCC uses RIPA powers.

5. Recommendations

Members are asked to:-

- a) Note for assurance the use of the powers under RIPA during the period.
- b) Note for assurance that the necessary amendments have been made to the RIPA policy which accommodate the requirements of the Protection of Freedoms Act 2012.

Background Documents

KCC RIPA Policy (updated)

Contact Officer

Mark Rolfe
Trading Standards Manager (East)
Kent County Council
Trading Standards
Highways Depot
4 Javelin Way
Henwood Industrial Estate
Ashford
TN24 8DH

Tel : 01233 898825
Email : mark.rolfe@kent.gov.uk