

To: Governance & Audit Committee

From: Mike Hill, Cabinet Member, Community Services
Barbara Cooper, Corporate Director, Growth, Environment & Transport

Date: 29 April 2015

Subject: RIPA report on surveillance, covert human intelligence source and telecommunications data requests carried out by KCC between 1 April 2014 – 31 March 2015

Classification: Unrestricted

FOR ASSURANCE

Summary This report outlines work undertaken by KCC Officers on surveillance, the use of covert human intelligence sources (CHIS) and access to telecommunications data governed by the Regulation of Investigatory Powers Act 2000 (RIPA) during the 2014/15 business year.

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 Members and 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 was submitted and approved by Governance and Audit Committee on 30th April 2014.

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 a memorandum of understanding 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.

After authorisation has been granted (if it is) the officer seeking to use the powers applies for judicial approval and attends a Magistrates' Court to secure this.

For surveillance and CHIS the approval document is then held on a central file. There is one central file for KCC, held on behalf of the Corporate Director, Growth, Environment and Transport, 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 (NAFN) to manage applications and keep our records. This was on the advice of the Interception of Communications Commissioner's Office (IoCCO). Any inspection of this type of approval carried out by IoCCO is conducted at the offices of NAFN.

3. RIPA work carried out between 1 April 2014 – 31 March 2015

Total number of authorisations granted (figure for 2013/14):

Surveillance – 2 (5)

Covert human intelligence source (CHIS) – 4 (8)

Access to telecommunications data – 26 (13)

4. Purposes for which RIPA powers used

Fly tipping

1 telecommunications data request and 1 covert surveillance authorisation relate to fly tipping enforcement.

The telecommunications data request results are part of a prosecution file currently with KCC Legal Services. The covert surveillance operation did not yield any information of value due to technical equipment failures.

Internal Audit

There have been two telecommunications data requests which both relate to the same case currently being investigated by KCC's Internal Audit team. The case concerns fraud relating to Blue Badges. This matter is still under investigation

Sale of counterfeit goods

3 CHIS and 4 telecommunications data authorisations were for the purpose of detecting the criminal activity in selling counterfeit goods. This is serious criminal activity which impacts on the local and national economy. All of the cases which these authorisations relate to are either still being investigated or are with KCC legal services pending a decision on whether or not to prosecute. It is not possible, at this stage, to provide further details.

Doorstep frauds

10 telecommunications data requests were authorised to investigate doorstep fraud. The frauds included roofing work, driveway work and tree surgery.

Of these cases, 2 are in the legal process, 3 are under active investigation and the remaining 5 did not produce sufficient evidence to proceed as a result of the telephone numbers being pre-paid mobiles.

Miscellaneous

Other matters for which RIPA authorisations have been used are:-

- An investigation relating to the repeated targeting of a vulnerable home owner for advance fee type fraud. Trading Standards had supplied and fitted a call blocking device to this resident which had prevented the fraudsters contacting him whilst allowing his friends and family normal access. One afternoon a taxi driver knocked on his door holding a mobile 'phone. This is how the scammers were attempting to get past our protection. They failed. The number given to the taxi company when the booking was taken led to an overseas address.
- Trading Standards are currently investigating organised criminality behind the supply of illicit tobacco products across the County. 4 telecommunications requests and 1 CHIS relate to this area of work.
- 3 telecommunication requests relate to one investigation of fraudulent activity in horses.
- 1 surveillance was authorised for an underage sales test purchasing operation. No sales were made to the child volunteer.
- 1 telecommunications request relates to an investigation into fraud by a letting agent. This case is currently before the courts.

5. Results from previous authorisations

A number of cases for which RIPA techniques were deployed have now completed their progress through the courts. Highlights include:-

- Convictions were secured in relation to two cases of the illegal storage and sale of fireworks. In one case one of the offenders was sentenced to 6 months in prison suspended for 2 years and the other to an 18 month community order. In the other the offender was sentenced to a 2 year conditional discharge with £500 costs. In both cases the fireworks were forfeited.
- Two men have been convicted of fraud and money laundering offences relating to landscape gardening doorstep activity targeting vulnerable home owners in East Kent. The pair had previously featured on BBC television's "Watchdog rogue traders" programme. They are due to be sentenced on 17th April.
- In one case of the organised sale of counterfeit goods on a wholesale scale, 4 defendants have been convicted and have received sentences of suspended prison sentences, unpaid work orders and curfew orders. Trading Standards are currently pursuing them to recover their criminal gains using the Proceeds of Crime Act.
- In another case of the wholesale supply of counterfeit goods, one man was sentenced to 16 months in prison and another to 6 months. Again, we are pursuing their criminal gains.
- A doorstep fraudster carrying out driveway work who targeted the Herne Bay and Whitstable areas has been convicted and awaits sentencing. He is currently in prison for an unrelated matter.

6. Error reporting

In relation to telecommunications data authorisations, it is a requirement that we notify the Commissioner if an error is made at any stage of the process.

This year we were notified by NAFN that a communication service provider had made an error in relation to one of our requests and had provided information outside of the dates which it was requested for. The Commissioner was notified by NAFN on our behalf. The error was entirely due to the provider and not to any action by KCC staff or the staff at NAFN.

7. Senior Responsible Officer

Barbara Cooper, as part of her role as Corporate Director for Growth, Environment and Transport, has assumed the responsibilities of the Senior Responsible Officer for KCC in relation to RIPA matters.

8. KCC RIPA Policy

The statutory codes of practice which cover public authority use of RIPA techniques require that the elected members of a local authority should review the authority's use of RIPA and set policy at least once per year.

Appendix 1 to this report is KCC's RIPA policy which has been approved by the Cabinet Member for Community Services, within whose portfolio the Trading Standards Service rests. No changes have been made to this policy since it came before this committee last year.

8. Recommendations

Members are asked to note for assurance the use of the powers under RIPA during the period and endorse the RIPA policy.

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 : 03000 410336

Email : mark.rolfe@kent.gov.uk