

**To:** Governance & Audit Committee

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

**Date:**

**Subject:** RIPA report on surveillance, covert human intelligence source and telecommunications data requests carried out by KCC between 1 April 2015 – 31 March 2016

**Classification:** Unrestricted

## **FOR ASSURANCE**

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**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 2015/16 business year.

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### **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 the Governance and Audit Committee on 29<sup>th</sup> April 2015.

### **2. What this report covers**

- 2.1 Covert Surveillance – Surveillance which is 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 2015 – 31 March 2016**

Total number of authorisations granted for 2015/16 (figure for 2014/15 in brackets):

Surveillance – 3 (2)

Covert human intelligence source (CHIS) – 1 (4)

Access to telecommunications data – 9 (26)

### **4. Purposes for which RIPA powers used**

Fly tipping

2 Surveillance authorisations relate to fly-tipping enforcement.

Sale of counterfeit goods

1 CHIS, 1 surveillance and 3 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. Four of the five authorisations relate to a single case which is still

being investigated. The fifth authorisation did not reveal any information of value to the investigation.

#### Doorstep frauds

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

Of these, two authorisations relate to the same case which has been concluded and resulted in the issuing of two written warnings and the conviction of a third individual who was sentenced to 27 months imprisonment for offences in Kent and in Leicestershire

The remaining four authorisations relate to matters which are still under investigation.

### **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:-

- Last year's report included mention of an investigation into a fraud by a letting agent. This matter has now been concluded with the conviction of the perpetrator who received a sentence of 18 months imprisonment, suspended, 200 hours community work and a costs order for £44000. Communications data evidence secured using RIPA was critical in proving the frauds which were linked to the agent misusing the deposits paid by tenants.
- Last year's report also mentioned an investigation into fraudulent activities relating to horse sales. This investigation is complete and the perpetrator was sentenced to 6 months imprisonment and was ordered to pay £6000 in compensation. RIPA evidence was critical in linking all of the sales as the perpetrator used a number of aliases and a variety of contact information.
- RIPA evidence in relation to the enquiries into the sale of illicit tobacco also mentioned in last year's report revealed what we believe to be a national conspiracy. Our file and evidence have been handed over the Her Majesty's Revenue and Customs who are investigating.
- A rogue builder who defrauded residents of Kent and Medway of at least £320,000, with one victim alone losing around £250,000, has been jailed for 6 years due, in part, to evidence generated through use of RIPA relating to the telephone numbers used.
- Communications data evidence secured under RIPA was, again, critical in securing the conviction of a rogue driveway layer who, in a joint prosecution with another authority, was sentenced to 12 months imprisonment.

## **6. Error reporting**

No errors have been reported this year.

## **7. Inspection by Office of the Surveillance Commissioner**

Kent County Council's use of RIPA was audited on 29<sup>th</sup> April 2015 by the Office of the Surveillance Commissioner. In his report, published on 21<sup>st</sup> May, the commissioner confirmed that KCC's "overall standard of compliance is good" and that "Your AOs (*authorising officers*) have considerable experience and knowledge of the legislation and authorisations for directed surveillance or the use of CHIS are sound".

The commissioner recommended that our policy be amended to cover the issues of internet and social media investigation (see below).

## **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.

Following the inspection by the Office of the Surveillance Commissioner, KCC's RIPA policy has been amended to comply with his recommendation to cover the issues of internet and social media investigations.

## **8. Recommendations**

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

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