

HAMPSHIRE COUNTY COUNCIL

Report

Committee:	Audit Committee
Date:	31 March 2011
Title:	Information Compliance - Use of Regulated Investigatory Powers
Reference:	2824
Report From:	<i>Chief Executive</i>

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1. Summary

1.1. The purpose of this report is to provide the Audit Committee with assurance that the County Council uses its investigatory powers in a lawful and proportionate way.

2. Contextual Information

2.1. The County Council operates a strict control policy which ensures that only authorised surveillance takes place in accordance with the Regulation of Investigatory Powers Act.

2.2. All applications for covert surveillance activity are coordinated through the Council's Regulatory Services (Legal and Compliance Team). Only 3 senior officers within that service can act as authorising officers for the whole of the County Council.

2.3. Officers of the County Councils Trading Standards Service surveillance efforts are targeted towards protecting those who are being cheated by businesses that trade fraudulently or, unfairly treated by businesses that act with gross negligence towards their customers; particularly young, vulnerable or elderly customers. Such work is often done in response to complaints from members of the public, and in conjunction with the Police and UK Border Agency.

2.4. It should be noted that the use of surveillance is not the totality of any criminal investigation, but, a small part of it and that criminal investigations may not complete their passage through the criminal court process for many months, if not years after the surveillance activity has ceased.

- 2.5. In 2009-2010 the majority of Covert Human Intelligence Sources (CHIS) authorisations related to the sale of counterfeit goods at markets and car boot sales within Hampshire. The work of the Trading Standards Officers has seen a significant drop in the amount of such illicit activity at markets and as such a corresponding drop in the number of CHIS authorisations required. This should be seen as a success.
- 2.6. The principal reasons for the use of surveillance are for prevention and detection of crime and not for criminal proceedings. As such, conviction rates, although excellent, are not the only measure of success (different methods of disposal such as letters of written warning and Simple Cautions are also justifiable indicators of RIPA usage).

The following table gives an indication of the results from the use of surveillance:

Table A

Year	Written Warnings	Convictions		Value of Fake Goods Seized
		Simple Cautions	Prosecutions ¹	
2008-2009	6	5	2	£92945
2009-2010	17	4	1	£87790
2010 – 2011 (to date)	15	3	8	£38550

- 2.7. The County Council is subject to external inspection of its use of surveillance. In October 2008 the Office of Surveillance Commissioners audited the County Council's management of covert activities. In his letter accompanying the report, the Chief Surveillance Commissioner wrote, "I am pleased to see that your staff in central departments and Trading Standards pay due regard to appropriate use of their covert powers and your central oversight is well-established and represents good practice". It is likely that the County Council will be audited again later this year.
- 2.8. In November 2010 the County Council was audited by the Interception of Communications Office. The inspector stated that he was satisfied that data had been acquired for the correct purpose and that he found no evidence that any data had been obtained for trivial reasons.
- 2.9. The approvals for surveillance for the period of April 2010 to January 2011 are shown in Appendix 1.
- 2.10. The government has outlined important proposed changes to the operation of surveillance by local authorities in the Protection of Freedoms Bill, with the aim that these changes will become law in early 2012. The County Council welcomes the increased checks and balances that the legislation will bring. However, as the County Council currently only uses the legislation to investigate crime, for example, the sale of counterfeit goods, and alcohol and

¹ Subject to caveat that not all criminal proceedings will have completed and will include convictions and proceedings which may still be active

cigarettes to children, it already restricts its use of surveillance to the kind of offences envisaged by the legislation.

3. Conclusions

- 3.1. The County Council recognises that the use of covert surveillance as part of its investigatory activities may cause concern to the public and that it has a responsibility to ensure that its surveillance powers continue to be exercised appropriately and proportionately. It therefore has a robust process for authorisation and monitoring of all surveillance activities and only uses them in relation to the prevention and detection of crime; and where it is lawful, necessary and proportionate to do so

4. Recommendation

- 4.1. That the Audit Committee note the contents of this report.

CORPORATE OR LEGAL INFORMATION:

Links to the Corporate Strategy

Hampshire safer and more secure for all:	yes
Corporate Improvement plan link number (if appropriate):	
Maximising well-being:	yes
Corporate Improvement plan link number (if appropriate):	
Enhancing our quality of place:	yes
Corporate Improvement plan link number (if appropriate):	

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

IMPACT ASSESSMENTS:

1. Equalities Impact Assessment:

- 1.1. Race and equality impact assessment has been considered in the development of this report and no adverse impact has been identified

2. Impact on Crime and Disorder:

- 2.1. The County Council has a legal obligation under Section 17 of the Crime and Disorder Act 1998 to consider the impact of all the decision it makes on the prevention of crime. The County Council is only able to lawfully carry out covert surveillance activity on the grounds of prevention and detection of crime and disorder. By complying with RIPA and the statutory Codes of Practice this activity will be carried out without unlawfully contravening the requirements of the European Convention on Human Rights and the Human Rights Act 1998. All activity under RIPA will therefore assist the County Council, where it is both necessary and proportionate to do so, in its aim to prevent and detect crime.

3. Climate Change:

- a)** How does what is being proposed impact on our carbon footprint / energy consumption?

The activities reported within this report have no effect on climate change

- b)** How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

The activities reported within this report have no effect on climate change

APPENDIX 1

Number of Authorisations 1 April 2010 – 01 March 2011

Direct Surveillance April 2010- date

Quarter	Purpose of Surveillance			Description of "other"
	C'feit Goods	Under Age Sales	Other	
1			1	(Covert camera used to gather evidence of fly tipping)
2			1	(To determine actual place of residence, and therefore location of offender for court proceedings - for case of falsely described vehicles)
3	2	1	1	(To establish whether subject is complying with court order)
4			1	(To establish whether subject is complying with court order)

Total - 7

Covert Human Intelligence Source April 2010- date

Quarter	Purpose of Surveillance		
	C'feit Goods	Under Age Sales	Other
1	4		
2	1		
3	12		
4			

Total - 18

Communications Data April 2010- date

Quarter	Number of Applications	Number of Specific Notices	Offences related to:
1	2	19	a. Altering mileage of vehicles b. Disposal of dead farm animals
2	0	0	
3	0	0	
4	0	0	

Total - 2