

MEETING	Decision Making Meeting
DATE	2 March 2021
TITLE OF REPORT	Under cover policing assurance
SUBMITTED BY	Deputy Chief Executive
PURPOSE OF REPORT	To consider how to get assurance with regard to under cover policing
DECISION(S) REQUIRED	As above
FINANCIAL IMPLICATIONS	None
LEGAL IMPLICATIONS	The assurance is part of the statutory holding to account function
EQUALITIES IMPACTS	None
FREEDOM OF INFORMATION EXEMPTION SECTION IF APPLICABLE	None

1 INTRODUCTION

The PCC receives at SEB a report each year on under cover policing in order to gain assurance that this necessary but potentially controversial aspect of policing is being conducted by the Chief Constable in accordance with the law, fairly and proportionately. By its nature, this aspect of policing is difficult to gain assurance because the PCC will not want to have knowledge of individual cases, cannot dip sample files and will not usually receive any comments from the public. This report is intended to review the assurance received and to consider if any changes are required to future reporting.

2 ASPECTS OF UNDER COVER POLICING AND ASSURANCE

The Chief Constable is responsible for those under his direction and control who are involved in under cover policing and the PCC is responsible for holding the Chief Constable to account to ensure he has assurance in this aspect of policing. Of course, the Chief Constable routinely briefs the PCC on any issues that are arising and that will include any with regard to under cover policing that it is appropriate to advise of. Particular aspects of the work are set out below. There are also significant national safeguards on powers with regard to under cover policing set out in statute and statutory codes of practice and guidance.

National Governance

- The main legislative framework covering under cover policing includes The Police Act 1997, the Regulation of Investigatory Powers Act (RIPA) 2000, The Investigatory Powers Act 2016 (IPA) and the Human Rights Act 1998
- The Investigatory Powers Commissioner's Office (IPCO) has a number of functions to provide assurance nationally that powers are being used lawfully. It provides independent oversight and authorisation of the use of powers of investigation to ensure investigations are conducted in accordance with the law and taking account of the public interest.
- The Investigatory Powers Tribunal (IPT) as an independent court to provide a right of redress to anyone who believes they have been a victim of unlawful action by any public body using covert investigation techniques.
- The Office of Communication Data Authorities (OCDA) is an independent organisation set up under the Investigatory Powers Act and is responsible for ensuring that any applications made by relevant authorities in the UK for communications data are assessed independently, rigorously and in line with newly strengthened legislation.

Hertfordshire Constabulary Governance

- All covert activity is authorised by an appropriate level Authorising Officer who is trained and accredited.
- The Superintendent, Serious and Organised Crime oversees all applications and is SRO for all applications.
- That post-holder is trained and licensed by the College of Policing to fulfil the role.
- The force Covert Authorities Bureau (CAB) manages all aspects of RIPA in the force including targeted interference with equipment under RIPA and property interference under the Police Act 1997.
- This team is experienced and competent to fulfil its role and ensure that all regulatory requirements are met and that all covert activity is necessary and proportionate.
- All authorisations are subject to scheduled review to ensure they remain appropriately in place.
- Any error discovered in a covert investigation is reported to IPCO who liaise directly with the authorising officer to ensure action is taken to prevent recurrence and that other appropriate action is taken.

Surveillance (Live and Technical)

- All directed surveillance is authorised by an appropriate officer, usually a superintendent, for a maximum of 3 months and reviewed monthly.

Property Interference and Intrusive Surveillance

- Property Interference applications are authorised by the Chief Constable. Notification of such authority is provided to IPCO for their concurrence. If intrusive surveillance activity is required (surveillance in a dwelling or private vehicle) then prior approval of IPCO is required before any activity can take place. The authorities are granted for three months and reviewed at least monthly. Such activity is undertaken by the CIU.

Covert Human Intelligence Sources (CHIS)

- All CHIS are managed within a dedicated Source Management Unit (SMU).
- The controllers and handlers are all accredited by the College of Policing for their respective roles and are responsible for the day to day management of the CHIS and their welfare.
- The Head of the Serious and Organised Crime Group is the Authorising Officer for CHIS use and conduct and authorities. These are granted for 12 months and reviewed at least every four months. Participating and juvenile CHIS are authorised by an Assistant Chief Constable.

Acquisition of Data Communications

- The Communications Data Intelligence Unit is the Single Point of Contact (SPOC) for all the telecoms and internet service providers. The unit has access to many of the telephone company databases and are able to obtain information directly.

Covert intelligence gathering and covert operations in prisons

- All covert activity within prison establishments is authorised initially for intelligence purposes only should this be required evidentially prior approval must be obtained from National Offender Management Service. All such applications are managed by the CAB and authorised internally by the authorising officer and agreement given by the Prison Governor.

Interception of communications and Undercover deployments

- ERSOU Confidential Unit manage the interception of communications and will seek authority via the National Crime Agency who handle interception on behalf of Law Enforcement Agencies
- ERSOU manage and authorise undercover activity carried out by advanced trained operatives where infiltration of criminal conspirators, particular high-risk offenders or offending groups takes place. In addition, they also undertake other undercover policing operations known undercover test-purchase operations and undercover on-line operations

- All Undercover operations undertaken by ERSOU are now authorised at ACC level in Bedfordshire Police and are managed by ERSOU staff. For operations exceeding twelve months the Chief Constable's authority is required. At least monthly reviews are carried out. IPCO are notified of every undercover authority that has been authorised.

Finance

- Undercover policing requires finance and this has to be managed with similar security. Covert accounts are maintained and are subject to audit by the force finance team. This audit takes place each year and includes random spot checks against receipts.
- Payments are authorised by the head of the serious crime team. Records are kept for all payments, the reasons for them and any additional rationale. Copies are kept securely for audit.
- The head of serious crime does retain secure records of all payments in and out, the annual audit of covert accounts.
- Internal audit also review the processes and systems although not of course individual or personal details.

3 ASSURANCE RECEIVED AT SEB MEETINGS

The PCC receives a report at SEB at least annually which includes the information provided above as well as numbers of activities in each category. The report also includes the IPCO annual report following their detailed inspection of the activities in-force. The report also includes some analysis of the report and actions taken to address any areas for learning or recommendations.

4 RECOMMENDATION

That the PCC considers whether additional reports are required from the Chief Constable to provide assurance on this aspect of policing.

5 BACKGROUND PAPERS

None