

Security Service Guidelines on the use of Agents who Participate in Criminality

Introduction

1. These Guidelines are intended to provide guidance to agent-running sections on the use of agents who participate in criminality. They replace the 'Guidelines for the Security Service – Use of Informants in Terrorist Related Cases' and the 'Security Service Policy on Running Agents in Serious Crime'.
2. Part II of the Regulation of Investigatory Powers Act 2000 ("RIPA") creates a regime for authorising the conduct and use of Covert Human Intelligence Sources ("CHISs"). This regime applies to the Service's use of agents, and the Service conducts its agent operations in accordance with RIPA and the CHIS Code of Practice issued under it.
3. RIPA does not provide any immunity for agents or others who participate in crime. [REDACTED]
[REDACTED] section 27 of RIPA¹. [REDACTED]
4. [REDACTED]
5. Subject to this, neither RIPA nor the Code of Practice provides for CHISs to be authorised to participate in criminality. However, the Service has established its own procedure for authorising the use of agents participating in crime, which it operates in parallel with the RIPA authorisation [REDACTED] [which governs the use and conduct of CHIS]
6. [REDACTED] the nature of the work of the Service is such that its agents are frequently tasked to report on sophisticated terrorist, criminal and other individuals and organisations whose activities may pose a grave threat to national security and/or involve the commission of serious offences. In those circumstances it may sometimes be necessary for agents to participate in criminality in order to secure or maintain access to intelligence that can be used to save life, disrupt more serious criminality, or to ensure the agent's continued safety, security and ability to pass such intelligence.

¹ Section 27(1) of RIPA provides that conduct in accordance with a CHIS authorisation shall be "lawful for all purposes".

Commission of criminal offences not covered by an authorisation

7. An agent who is or may be involved in criminal activity not covered by an authorisation issued under these Guidelines must be clearly informed that his role, or continued role, as an agent does not carry with it immunity from prosecution. [REDACTED]

Authorisation of use of participating agent

8. An officer empowered to issue a CHIS authorisation under RIPA (an "authorising officer") may in appropriate cases authorise the use of an agent participating in crime [REDACTED]

9. [REDACTED]

- (a) the agent is likely to be able to provide information concerning serious crime, [REDACTED] and
- (b) the required information cannot readily be obtained by any other means; and
- (c) the need for the information that may be obtained by the use of the agent justifies his use notwithstanding the criminal activity in which the agent is or may be involved.

10. The criterion at paragraph 9(c) is not satisfied unless the authorising officer is satisfied that the potential harm to the public interest from the criminal activity of the agent is outweighed by the benefit to the public interest from the information it is anticipated that the agent may provide and that the benefit is proportionate to the criminal activity in question.

11. [REDACTED]

- [REDACTED]
12. It is vital that full and accurate records are made of everything said to an agent on the subject of participation and of his response. [REDACTED]

[*MI5 officers*]

[REDACTED] should understand that they may be called upon to account for their decisions and actions, [REDACTED]
[REDACTED] agents and those involved in the authorisation process should understand that the authorisation process does not bestow on them any immunity from prosecution.
[REDACTED]

Agent handlers

13. No member of the Service shall counsel, incite or procure the commission of a criminal offence save and to the extent that the offence is covered by an authorisation issued under these Guidelines.

Serious crime casework

14. In principle, these Guidelines apply to the Service's serious crime casework in the same way as to its counter-terrorist and other national security work. However, the Service recognises that its function in relation to the prevention and detection of serious crime is to act in support of the police and other law enforcement agencies. [REDACTED]
[REDACTED]

