



## Juvenile CHIS

- Juvenile CHIS are only used in extremely rare and exceptional circumstances and are authorised in very small numbers. In response to a challenge before the High Court last year, Mr Justice Supperstone set out that juveniles are “only utilised in extreme circumstances and when other potential sources of information have been exhausted”.
- Between January 2015 and December 2018, there were only 17 instances where law enforcement bodies deployed juvenile CHIS, and their participation in criminal conduct is rarer still. 16 of these were 16 or 17 years old and 1 was 15 years old.
- The then Investigatory Powers Commissioner has previously noted that in practice JCHIS are not tasked to participate in criminality that they are not already involved in. He also noted that decisions to authorise were only made where this was the best option for breaking the cycle of crime and danger for the young person. The relationship between a public authority and JCHIS is never an exploitative one – the wellbeing of a CHIS is at the heart of all CHIS-handler relationships, as mandated by RIPA.
- However, young people are regrettably sometimes drawn into criminal activity, including as victims of crime. The county lines phenomenon is a key example. In some circumstances, a young person may have unique access to information or intelligence that could play a vital part in shutting down the criminality, prosecuting offenders and preventing further harm to individuals and the wider community.
- Without the ability to authorise participation in this activity, key intelligence will be lost and further individuals will be exploited by these criminal groups. There is also a risk that this leads to gangs increasingly using juveniles as they could be confident that they are not working on behalf of the state.

### Additional Safeguards

- The CHIS Code of Practice, which has legal force, and the Regulation of Investigatory Powers (Juveniles) Order 2000 set out the additional safeguards for the authorisation of Juvenile CHIS. These are in addition to the safeguards which apply more generally to all criminal conduct authorisations.
- No juvenile may be deployed as a JCHIS without extensive safeguards being put in place to ensure their safety and prevent physical or psychological harm to them as a result of the role. The Investigatory Powers Commissioner has considered this in detail and *“is satisfied that those who grant such authorisations do so only after very careful consideration of the inherent risks. Concerns around the safeguarding of children and the public authority’s duty of care to the child are key considerations in the authorisation process.”*
- These additional safeguards include authorisation at a more senior level, an enhanced risk assessment process, and a shorter authorisation period of four months, with reviews of the authorisation at least monthly.
- There is also a requirement for an appropriate adult to be present in any discussions between the handlers and a young person under 16 years of age and to be considered on a case by case basis for 16 and 17 year olds. This will be either a parent or guardian, or a person who is otherwise qualified to represent their interests. This person will also have a role in ensuring the young person is not deployed in a way that is against their own will or their interests.
- The Code also explicitly states that the need to safeguard and promote the best interests of the juvenile is a primary consideration in all operations involving juvenile CHIS, reflecting the requirement in Article 3 of the United Nations Convention on the Rights of the Child.

### In the High Court:

*R (Just for Kids Law) v Secretary of State for Home Department,*

The Hon. Mr Justice Supperstone found in the Government’s favour where he concluded:

“The scheme to authorise juvenile CHIS adequately safeguarded the interest and welfare of juvenile CHIS and did not therefore give rise to an unacceptable risk of breach of the Article 8 rights of a juvenile CHIS.”

Justice for Kids have dropped their appeal against this ruling after the Government committed to update the CHIS Code of Practice to reflect the enhanced safeguards in place for JCHIS. Draft revisions have been published alongside this Bill and this will be subject to a full consultation and debate in both Houses.