1.0 Summary of Changes

1.1 Following its 2 yearly review, the only amendment made to this policy has been within section 4.3.1 to update the 9 protected EIA characteristics.

2.0 What this Policy is About

2.1 This policy gives an overview of intellectual property rights and counterfeit goods and guidance and advice on how to deal with criminal offences in connection with them.

Compliance with this policy and any linked procedures is mandatory.

3.0 Statement of Policy

3.1 Intellectual property (IP) refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.

3.2 Intellectual property is divided into two categories:

- Industrial property, which includes inventions (patents), trademarks, industrial designs, and geographic indications of source;
- Copyright, which includes literary and artistic works such as novels, films, musical works, artistic works such as drawings, paintings, photographs and sculptures, and architectural designs. Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and those of broadcasters in their radio and television programmes;

3.3 Primacy for these investigations sits with Trading Standards.

3.4 Investigations will normally fall into two distinct categories, these are:

- Discovered by police including self-initiated and proactive operations; and
- Cases referred by an outside body, private agency/organisation. This policy is mainly concerned with the latter.

3.5 Officers must first establish whether sufficient evidence exists to further a criminal enquiry or whether the agency wishes to pursue a private prosecution. Considering the diverse nature of intellectual property rights, in deciding who is going to lead the investigation, each case should be decided on its merits. It will also depend at what level the investigation takes place. The police can prosecute under these powers so where applicable may choose to take primacy.
3.6 At its highest level it may be organised crime, alternatively it may simply be a market trader selling counterfeit goods. They are all committing a criminal offence but at the earliest stage the police would agree who is best placed to act and gain a successful prosecution. Similarly it may depend on who is being dealt with.

3.7 In many cases it will be Trading Standards, in others it may be beneficial to let Federation Against Copyright Theft (FACT) or one of the other privately funded organisations take out a private prosecution, freeing up police resources and utilising the agencies skills, knowledge and experience in the field. Where it’s established that the criminality has a degree of sophistication the case should be referred to the DCI Serious and Organised Crime.

3.8 The Counter Terrorism and Security Act (CTSA) 2015 places a duty on various specified authorities to have ‘due regard to the need to prevent people being drawn into terrorism’. This is referred to as a ‘Prevent Duty’ and involves:

- Responding to the ideological challenge of terrorism;
- Preventing people from being drawn into terrorism;
- Working with sectors and institutions where there are risks of radicalisation.

3.8.1 The CTSA 2015 also places a duty upon specified authorities in relation to supporting people vulnerable to being drawn into terrorism through the Channel programme. Channel is a multi-agency safeguarding programme, which provides support to those individuals who may be vulnerable to being drawn into any form of extremism that could lead to terrorist related activity.

3.8.2 This policy has been reviewed and assessed that the CTSA duties could be relevant and as such your attention is drawn to your responsibilities under the Act. Further details about the Prevent Duty and the Channel Duty can be found below.

- Learn more about the Prevent Duty.
- Learn more about the Channel Duty.

4.0 Implications of the Policy

4.1 Finance / Staffing / Training / Other

4.1.1 No finance, staffing or training implications have been identified in the creation of this policy.

4.2 Risk Assessment(s)

4.2.1 This policy has been assessed as low risk.
4.3 Equality Impact Assessment

4.3.1 An Equality Impact Assessment has been carried out and shows the proposals in this policy would have no potential or actual differential impact on grounds of age, sex, disability, race, religion or belief, marriage and civil partnership, sexual orientation, gender reassignment and pregnancy and maternity.

5.0 Consultation

5.1 Consultation has taken place by Kent Police with the below departments:

- SCD-SECU / SCD-SOCU
- Finance / Legal
- Human Resources / Estates
- IT Security / Health & Safety
- Equality and Diversity / Freedom of Information

5.2 Consultation has taken place by Essex Police with the below roles:

- D/Inspector, D/Sergeant, D/Constable, Sergeant

6.0 Monitoring and Review

6.1 This policy is will be due for review every two years to ensure it remains accurate and fit for purpose. The review will be conducted by the Head of Serious & Organised Crime Unit, SCD.

7.0 Related force policies or related procedures (Essex) / linked standard operating procedures (Kent)

- S 1201 Procedure/SOP – Counterfeit Goods

8.0 Other source documents, e.g. Legislation, APP, partnership agreements (if applicable)

- Counterfeit Goods – Flowchart