

New RIPA Part 2 Orders and Codes of Practice

Further to the consultation on Part 2 of RIPA last year, the Home Office has published new RIPA Orders and Codes of Practice to come into force on 6th April 2010.

The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010:

- Consolidates previous orders which set out who within each public authority can authorise surveillance under Part 2.
- Maintains the grounds for which an authorisation could be given to sections 28(3)(b) and 29(3)(b) - i.e. for the purpose of preventing or detecting crime or of preventing disorder;
- Revises the prescribed officers who can sign authorisations to be "Director, Head of Service, Service Manager or equivalent" (and more senior posts);
- Maintains the definition of a local authority (in England and Wales).

All the draft RIPA Orders can be found at <http://www.opsi.gov.uk/si/dsis2010> under "Investigatory Powers".

The **Revised Codes of Practice on Directed Surveillance and CHIS** provide more guidance on key RIPA concepts such as necessity, proportionality and collateral intrusion. They also use real life examples to explain key points and are generally much more user friendly than the previous versions. The Codes also place the following responsibilities on public authorities –

- (i) **Senior Responsible Officer (SRO)** - it is considered good practice for an SRO to be made responsible for:
 - the integrity of the process in place within the public authority for the management of CHIS and Directed Surveillance;
 - compliance with Part 2 of the Act and with the Codes;
 - oversight of the reporting of errors to the relevant oversight Commissioner and the identification of both the cause(s) of errors and the implementation of processes to minimise repetition of errors;
 - engagement with the OSC inspectors when they conduct their inspections, where applicable; and
 - where necessary, oversight of the implementation of post-inspection action plans approved by the relevant oversight Commissioner.

Within local authorities, the SRO should be a member of the corporate leadership team and should be responsible for ensuring that all authorising officers are of an appropriate standard in the light of any recommendations in the inspection reports prepared by the OSC. Where an inspection report highlights concerns about the standards of authorising officers, the SRO will be responsible for ensuring the concerns are addressed.

- (ii) **Councillors' Roles** - Councillors in a local authority should review the authority's use of RIPA and set the policy at least once a year.

They should also consider internal reports on the use of RIPA at least on a quarterly basis to ensure that it is being used consistently with the council's policy and that the policy

remains fit for purpose. They should not, however, be involved in making decisions on specific authorisations.

The draft codes can be found <http://security.homeoffice.gov.uk/ripa/publication-search/general-publications/ripa-cop/index.html>

Free Web Seminar

Ibrahim Hasan will be examining the new codes and regulation in detail during a free web seminar on Wednesday 3rd February at 11am.

More Details: <http://www.brighttalk.com/webcasts/8569/attend>

Training and Advice

The new measures will have a significant impact on local authorities. They emphasise the responsibilities of Chief Executives and Legal Advisors and introduce nominated elected members to fresh legal responsibilities.

Clearly there are challenges to be met by local authorities in 2010. The Office of Surveillance Commissioners (OSC) emphasises the need for awareness training at senior levels and specialist training for authorising officers.

Act Now Training can provide consultancy and training services from experienced trainers (led by Ibrahim Hasan and Sharon Heels) to assist local authorities in the following areas:

- Training on the new laws and codes
- Auditing and reviewing RIPA forms
- Guidance on completing RIPA forms
- Providing a RIPA helpline service
- Drafting/checking RIPA policies and procedures

Our forthcoming external RIPA courses in Manchester and London will take account of all these new developments:

http://www.actnow.org.uk/courses/RIPA/Surveillance_Law

We can also do customised in house training for your authorising officers and elected members to explain their new responsibilities:

<http://www.actnow.org.uk/content/12>

Please feel free to contact us if you wish to discuss your surveillance training/advice needs.

Ibrahim Hasan

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