

## **RIPA and OSC Inspections**

The Regulation of Investigatory Powers Act 2000 (RIPA) was enacted to ensure that surveillance activities being carried out by public authorities, including councils, are done in accordance with Human Rights legislation. Amongst other things, it requires such surveillance to be authorised by managers after consideration of certain criteria. Whilst such authorisations are not actually a legal requirement they will help councils defend a legal challenge, on human rights grounds, to their surveillance activities.

Council revenues and benefits departments often carry out surveillance, which falls under RIPA. They may decide to following a person who has not declared their full income on a benefit application or they may go to a house to see if the owner, who is claiming vacant property discount, is actually living there. All this must be done in accordance with RIPA and its associated codes of practice to ensure that there is no challenge to the evidence which is gathered or to the process generally.

Like a lot of legislation directed at public authorities these days, RIPA comes with its own inspection regime. This is carried out by the Office of the Surveillance Commissioner ([www.surveillancecommissioners.gov.uk](http://www.surveillancecommissioners.gov.uk)). The Commissioner, Sir Andrew Leggatt, is assisted by a number of retired judges and former senior policeman. They are empowered to visit authorities to inspect their RIPA compliance. A report is then written which goes to the Chief Executive of the inspected authority. Managers in revenues and benefits sections must ensure that their service areas are RIPA compliant because when their councils are inspected, they can expect to be called for interview by the inspector. There now follows the story of how one council was inspected and the lessons learnt.

It started with a letter to the Chief Executive. The date was early October and we had just received six weeks notice that we were to have a two day inspection. Luckily we had already done some preparation. We had presented a briefing to senior managers some weeks earlier and had outlined what we thought was required for compliance. This included a co-ordinator to offer advice, a central register of authorisations for covert operations, training for enforcement officers and also for those signing authorisations and a guidance note for staff showing them how to fill in an authorisation form. An officer from Legal and one from Policy were mandated to pull these strings together.

The Head of Legal replied to the letter offering a series of interviews with officers using authorisations for covert surveillance work and a timetable was drawn up. There were about a dozen people listed including those investigating benefit fraud. We also sent a copy of our guidance document to the inspector in advance of the actual inspection.

Day one of the inspection went well. The Inspector arrived on time. He first gave us a rundown on what RIPA was about and the purpose of the inspection. This was followed by an introduction by the Chief Executive. After this the process of interviews began. The inspector, through his questions, tried to gauge the level of knowledge of RIPA and its importance. He also looked through the records of authorisations to check if they had been done properly. By 4pm the day's work was done. Before he left the inspector asked for demographic information to be supplied about the Council so he could use it in setting the scene in his report – number of authorisations issued in last 12 months, population of the district, number of employees etc.

On day two, instead of staying in the town hall, the Inspector walked to various locations to conduct interviews. This included the CCTV control room, the Housing Department and the Environmental Services Department.

By noon, a group of officers, including Head Of Legal and the Chief Executive, received his verbal feedback; generally good, some very good practice but some omissions from the guidance document and in general a lack of clarity in the actual authorisations. Training needed to go up to and including the Chief Executive as it was usually high level officers who signed the authorisations. Three weeks later the report arrived. A set of recommendations which will be implemented and a pat on the back for the Council who performed well.

One big lesson we learnt from the inspection was the need for training of all officers who carry out or authorise surveillance to ensure that they have a good understanding of the Act and its importance in ensuring surveillance activities are human rights compliant. This training should be offered to all officers not just the usual suspects such as housing and environmental health. Often officers don't even know what they are doing is the subject of RIPA until the definition of covert surveillance is explained to them. Furthermore this training should be reviewed on a regular basis to ensure that officers are aware of up to date developments in the law and practice.

**For Training in RIP Act 2000 visit [www.actnowtraining.co.uk](http://www.actnowtraining.co.uk).**