



**Regulation of Investigatory
Powers Act 2000**

**Annual Report
2009/2010**

1 Introduction

The Human Rights Act 1998 requires Peterborough City Council, and organisations working on its behalf, pursuant to Article 8 of the European Convention, to respect the private and family life of citizens, their home and their correspondence.

This is not, however, an absolute right, but a qualified right. Accordingly, in certain circumstances, the Council may interfere in the citizen's right if such interference is:

- In accordance with the law;
- Necessary; and
- Proportionate

The Regulation of Investigatory Powers Act 2000 (RIPA) provides a statutory mechanism for authorising covert surveillance and the use of a 'covert human intelligence source' (CHIS) e.g. undercover agents. It now also permits Public Authorities to compel telecommunications and postal companies to obtain and release communications data, in certain circumstances. It seeks to ensure that any interference with an individual's right under Article 8 is **necessary and proportionate**. In doing so, RIPA seeks to ensure both the public interest and the human rights of individuals are suitably balanced.

Covert surveillance¹ is carried out in a manner calculated to ensure that the person subject to the surveillance is unaware of it taking place. It cannot, however, be 'necessary' if there is a reasonably available overt means of establishing the information required. Therefore this method of investigation should only be used as a last resort.

Council officers and external agencies working on behalf of Peterborough City Council must comply with RIPA and any work carried out must be properly authorised by one of the Council's Authorising Officers. Authorising Officers are those whose posts appear in Appendix 1 to this report. The powers contained within the Act can only be used for the purpose of preventing or detecting crime or preventing disorder.²

If the correct procedures are not followed when considering the use of RIPA evidence may be disallowed in court. A complaint of maladministration could also be made to the Council and such action would not promote the good reputation of the Council. Disciplinary action would also be considered in

¹ Surveillance, for the purpose of the 2000 Act, includes monitoring, observing or listening to persons, their movements, conversations or other activities and communications. It may be conducted with or without the assistance of a surveillance device and includes the recording of any information obtained.

² Detecting crime is defined in section 81(5) of the 2000 Act. Preventing or detecting crime goes beyond the prosecution of offenders and includes actions taken to avert, end or disrupt the commission of criminal offences.

certain circumstances. **It is essential, therefore, that all involved with RIPA comply with the Council's procedures and seek advice from the Authorising Officers at all times.**

2 Governance Arrangements at Peterborough City Council

A centrally retrievable record of all authorisations should be held by each public authority and regularly updated whenever an authorisation is granted, renewed or cancelled. Peterborough City Council's records are reviewed and maintained by the Compliance and Ethical Standards Manager.

A team of RIPA specialists has been established to oversee all RIPA activity and to ensure that the relevant governance arrangements are in place such as policy review and training for practitioners, authorising officers and Councillors. The group also incorporates good practice into operational procedures such as the introduction of a toolkit, which contains RIPA guidance. Membership of the group includes:

- Executive Director of Operations;
- The Compliance and Ethical Standards Manager;
- Business Regulation Strategic Manager;
- Senior Lawyer; and
- Resilience Service Manager.

The group meet frequently to consider the strategic and operational aspects of RIPA.

3 Changes to Legislation and Codes of Practice from April 2010

A thorough review of RIPA was undertaken by the Home Office during 2009. As a result of that review, certain legislative changes have been made and new Codes of Practice for Covert Surveillance and CHIS's have been published. In summary, the legislative changes that affect Peterborough City Council are:

- The level of Authorising Officer for covert surveillance activities has been reviewed. All Authorising Officers should now be Service Manager, Head of Service or Director (or equivalent). This also applies to the acquisition and disclosure of communications data and the Designated Person (Authorising Officer) level.

The revised Codes of Practice provide more guidance on key RIPA concepts such as necessity and proportionality. The Codes also place the following responsibilities on public authorities:

- Senior Responsible Officer – it is considered good practice for this post to be made responsible for -
 - a) The integrity of the process in place within the public authority for the management of CHIS's and surveillance;
 - b) Compliance with Part 2 of the Act and with the Codes;

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- c) Oversight of the reporting of errors to the relevant oversight Commissioner;
- d) Engagement with the Office of Surveillance Commissioner inspectors when they conduct their inspections; and
- e) Oversight of the implementation of post-inspection plans approved by the relevant Commissioner

The Senior Responsible Officer should be a member of the corporate leadership team. The Executive Director of Operations will assume this role at Peterborough City Council.

- 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.

Peterborough City Council's Audit Committee will receive an annual report on the use of RIPA and quarterly updates throughout the year to ensure a consistent approach is maintained. The RIPA policy will also be presented to the Committee for approval on an annual basis.

4 RIPA Activity 2009-2010

Although Peterborough City Council is a unitary authority with many enforcement functions, the use of RIPA has always been minimal. This is attributable to the excellent level of training and awareness available to all staff, the use of less intrusive methods to obtain required information and to the robust governance arrangements in place to ensure the Council's integrity is maintained. Test Purchasing³ activity is shown to have increased during 2010. Following the Office of Surveillance Commissioner's inspection of 2009, a decision was taken to authorise Test Purchasing activity under RIPA as it is considered good practice to do so.

During 2009/2010, surveillance was authorised as follows:

| Date of Authorisation | Reason |
|------------------------------|-----------------|
| May 2009 | Corporate Fraud |
| December 2009 | Test Purchasing |
| January 2009 | Test Purchasing |
| March 2009 | Test Purchasing |
| March 2009 | Test Purchasing |

³ Test Purchasing is the testing of age restricted goods such as alcohol, tobacco and fireworks, at premises throughout the City.

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During April to June 2010, surveillance was authorised as follows:

| Date of Authorisation | Reason | Level of Authorising Officer |
|------------------------------|---------------------|-------------------------------------|
| May 2010 | Test Purchasing x 2 | Service Manager |
| June 2010 | Trading Standards | Service Manager |

During 2009/2010, access to communications data was acquired as follows:

| Date of Authorisation | Reason |
|------------------------------|-------------------|
| December 2009 | Trading Standards |

During April to June 2010, access to communications data was acquired as follows:

| Date of Authorisation | Reason | Level of Authorising Officer |
|------------------------------|-----------------------|-------------------------------------|
| April 2010 | Trading Standards x 3 | |

5 Future Considerations

Peterborough City Council has a rolling three year training programme, which addresses the needs of practitioners, Authorising Officers and Councillors. It has been agreed that annual training will be delivered to each group over a three year period; the training will be provided in partnership with Cambridgeshire Constabulary. This collaborative approach is seen as an example of good practice by the Office of Surveillance Commissioners.

It has been reported in the media that the Coalition Government is keen to address the use of RIPA powers by Local Authorities. No decision has been made regarding changes to existing practices but Local Authorities are involved in consultation exercises.

6 Conclusions

Peterborough City Council was last inspected by the Office of Surveillance Commissioners in 2009. The inspection report was extremely positive and congratulated all involved in the administration of RIPA. Although recognising that the Council is an infrequent user of the powers, good practice was identified in the introduction of a RIPA toolkit and RIPA group and the Council's overall approach to RIPA was deemed to be professional, with

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leadership from the top, clear systems and processes and the appropriate investment in training.

Peterborough City Council will continue to build on this success to ensure that any use of RIPA continues to be lawful, proportionate and necessary, and used only as a last resort in circumstances where less intrusive methods are indisputably inappropriate.

**REGULATION OF INVESTIGATORY POWERS ACT 2000 –
PETERBOROUGH CITY COUNCIL AUTHORISED OFFICERS**

- **Chief Executive**
- **Executive Director of Operations**
- **Compliance and Ethical Standards Manager**
- **Chief Internal Auditor**
- **Business Regulation Strategic Manager (Operations)**
- **Resilience Services Manager**

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