

**INSPECTION BY THE INTERCEPTION OF COMMUNICATIONS
COMMISSIONER
(Joint Report by Head of Legal & Democratic Services
and Fraud Manager)**

1. INTRODUCTION

- 1.1 Article 8 of the Human Rights Act 1998 (HRA) states that every person shall have the right to respect for his private and family life, home, and correspondence. The Article states that there shall be no interference with this right by any public body except in accordance with the law. The Article, unlike many of the other Articles, does not give an absolute right to privacy, but allows national legislation, compliant with HRA, to limit or suspend the right in prescribed circumstances.
- 1.2 The Regulation of Investigatory Powers Act 2000 (RIPA) was introduced to provide law enforcement agencies with a legal gateway and strict guidance on when and how the subject of an investigation can have their Article 8 rights suspended. Contrary to much press publicity Local Councils can use the powers conferred by RIPA, *but only for the purposes of the detection and prevention of crime.*
- 1.3 Local Councils can use RIPA Authorisations to acquire 'Communications Data'. The Legislation, guidance and Code of Practice for both these areas is provided by the Home Office.
- 1.4 Huntingdonshire District Council (HDC) has had policies in place since 2001 which ensure that officers conducting these activities are fully trained and conversant with both the law and the most recent guidance from the Home Office.
- 1.5 The Council makes careful use of the powers granted under the Act as part of its enforcement functions to gather evidence for use in investigations and as evidence in court. The information obtained normally relates to subscriber information for telephone numbers or web-sites.

2. COMMISSIONERS

- 2.1 RIPA provided for the creation of two commissioners to oversee the two areas of RIPA which affect HDC. The Office of the Surveillance Commissioner (OSC) and the Interception of Communication Commissioner Office (IOCCO) carry out these two separate functions.
- 2.2 The council is required, whether there is a policy in place or not, to provide annual reports to both commissioners on all activity undertaken. The OSC inspect every Local Council affected by RIPA every three years and the IOCCO conduct random inspections.

3 2012 INSPECTION

3.1 HDC was inspected on 13th March 2012 by IOCCO. This inspection lasted a full day and included an pre-inspection review of the Councils policies and procedures, as well as meetings with:

- Head of Legal & Democratic Services who acts as the Councils Senior Responsible Officer;
- Heads of Service who authorise applications for acquisition of Communications Data;
- Fraud Manager who acts as the Councils Central Monitoring Officer for all matters relating to RIPA; and
- The staff manning the Councils 'Single Point of Contact' which forms part of the Councils Fraud Team function.

3.2 The Inspection also included a review of all 18 applications for Communications Data made by the Council in 2011.

3.3. On the 11th April 2012 IOCCO issued the Commissioner's Report following the Inspection. The Summary of findings from the report notes that:

"The public authority is acquiring communications data for the correct statutory purpose and importantly no evidence was found that the Council's powers under Part I Chapter II of RIPA had been used to investigate trivial offences. Overall the Council has a satisfactory level of compliance with the Act and Code of Practice. However, there is room to improve parts of the systems and processes for acquiring communications data."

3.4 A copy of the full IOCCO Report dated 13th March 2012 is attached.

3.5 The report was very positive about the Councils use of RIPA but still provided a number of recommendations for further improvement which are highlighted as Red (urgent action required), Amber (non-urgent action required) and Green (best practice). In all 1 Red action was required, 4 Amber and 3 Green. The specific recommendations and the Council's response are shown in Annex A.

3.6 The Urgent matter had already been identified as part of the pre-inspection process and dealt with by the Council and all applications comply with this recommendation.

3.7 The non urgent actions highlighted have all be accepted and necessary action including some changes to processes have all been completed as recommended.

3.8 The matters highlighted as Best Practice have all been addressed and will be included when the Council reviews its policies and procedures following the introduction of the Protection of Freedoms Act 2012.

4. RECOMMENDATION

that the Panel

- (a) note and accept the findings of the IOCCO report;
- (b) note and endorse the actions taken and proposed by the Council in response to the IOCCO recommendations;
- (c) note the Council's use of powers under RIPA and endorse the adopted approach of using these appropriately, but sparingly;

ATTACHED

HDC Policy- Acquisition of Communications Data -Regulation of Investigatory Powers Act 2000

Interception of Communication Commissioners Office Report 2011

BACKGROUND INFORMATION

Human Rights Act 1998
Regulation of Investigatory Powers Act 2000

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