

REPORT

REGULATION OF INVESTIGATORY POWERS ACT 2000

1. Purpose of the Report

- 1.1. To advise Members of the procedures for obtaining Communications Data under the Regulation of Investigatory Powers Act 2000 and to delegate authority to the Chief Executive for appointment of appropriate officers and to Management Team for the approval of necessary changes to procedures.

2. Background

- 2.1. Members will recall that in September 2003 the Council approved a policy and procedures for carrying out surveillance pursuant to RIPA.
- 2.2. At the time authority to appoint the necessary Authorised Officers (i.e. those officers who authorise surveillance pursuant to RIPA) was delegated to the Chief Executive.
- 2.3. From time to time when carrying out investigations, officers may require "Communications Data". This means, for telecommunications, the subscriber's details, the names addresses and numbers of those contacted and web addresses visited and, for postal communications, anything written on the outside of the items. It does not include the content of any such communication.
- 2.4. Local Authorities are only able to obtain Communications Data in connection with investigations for the purpose of preventing or detecting crime or preventing disorder. Some examples would be a fly tipping by a lorry with a telephone number on its side or an allegation that a benefit claimant is carrying out hairdressing and has a card in the local newsagent with a telephone number on. Under a new RIPA Order the Council will be able to find out the name and address of the person in whose name the telephone is registered by applying to the service provider.
- 2.5. The Government has issued the Regulation of Investigatory Powers (Communications Data) Order 2003 ("the Order") to cover requests for such data. This requires all Authorities to have Single Points of Contact (SPOCs), appoint of "Designated Persons" and make changes to the procedures. SPOCs can also be Designated Persons.

3. Single Points of Contact and Designated Persons

- 3.1. The Order requires Local Authorities to appoint two categories of people; SPOCs and Designated Persons.
- 3.3 SPOCs must be Home Office approved. Before the approval can be given they have to undergo training provided by one of a limited number of Home Office approved trainers and also sit an examination which will ensure that they have a good working knowledge of RIPA, the Regulations and Orders made pursuant to RIPA and the Human Rights and Data Protection implications of their roles and the information they are seeking. The SPOC does not authorise the obtaining of the information. He or she is the conduit through which applications are made and the information is received.
- 3.4 The Designated Persons approve applications for Communications Data.
- 3.5 In the event an officer carrying out an investigation requires Communications Data, he or she has to make an application to the SPOC who confirms whether the request is lawful and permissible (within RIPA and its Regulations). The SPOC applies to the Designated Person who will consider all the information given and advise the SPOC whether or not the application is authorised, much in the way an Authorised Officer approves or refuses an application of surveillance. If approved the SPOC then forwards the request for the information to the service provider of the communications system, whether a telephone company, the Post Office or an Internet provider. The service provider will provide the information to the SPOC who in turn will forward it to the Investigating Officer.

- 3.6 The service providers can charge for the information they supply and each one has to provide a menu of what information they will give out and the charge they will make for it.

4. The Situation at Salisbury

- 4.1. It is unlikely that requests for Communications Data will be made very often, if at all. However it is a requirement that the Council has the relevant appointed officers and procedures in place.
- 4.2. Two officers within the Revenues and Benefits Unit, have undergone SPOC training. At the time of writing this report they have not yet received their Home Office approval, but anticipate receiving this shortly.
- 4.3. It is necessary to appoint Designated Persons, i.e. those officers who can authorise the obtaining of Communications Data. The power to appoint officers to be authorised for the purposes of Part II of RIPA is delegated to the Chief Executive. This does not extend to Designated Persons as the Communications Data elements of RIPA are contained in Part I. It is therefore proposed that the power delegated to the Chief Executive for appointment of officers pursuant to RIPA refers to appointments for the purposes of the Regulation of Investigatory Powers Act 2000 as a whole rather than referring to any particular Part or Parts. He will then be able to appoint Designated Persons and any other officers that may be required to be appointed under RIPA in the future.
- 4.4. Likewise, the approval of any changes necessary from time to time to procedures pursuant to Part II of RIPA is delegated to the Chief Executive and the Policy Directors, collectively as the Management Team. It is suggested this also be amended to enable them to approve any changes to any procedures required under RIPA. This will then enable them to approve changes necessary to deal with acquisition and disclosure of Communications Data and any other procedures that may be needed in the future.

5. Recommendation

- 5.1. It is therefore recommended that:-

- (i) Clause 1.16 of Annex B to the Officers Scheme of Delegation be amended to read as follows:

1.16 – To appoint Officers to be authorised or designated for the purposes of the Regulation of Investigatory Powers Act 2000.

- (ii) Clause 2.6 of Annex B to the Officers Scheme of Delegation be amended to read as follows:

2.6 – To approve collectively as the Management Team any changes necessary from time to time to the procedures pursuant to the Regulations of Investigatory Powers Act 2000.

6. Background papers

- 6.1 Regulation of Investigatory Powers Act 2000
- 6.2 The Regulation of Investigatory Powers (Communications Data) Order 2003.

7. Implications

- Financial : Other than any fees payable to service providers, there are none.
- 7.1. Legal : None
- 7.2. Personnel : None, other than additional powers being given to some Officers.
- 7.4 Human Rights : None, as the intention behind the legislation is to ensure that any acquisition and disclosure of Communications Data complies with Human Rights.
- 7.5 Environmental : None
- 7.3. Community Safety : None
- 7.4. Wards Affected : All