

NOTES TO THE FRAUD RESPONSE PLAN (COMPLIANCE WITH RELEVANT LEGISLATION)

Note 1.

If an investigation is likely to require surveillance or the use of a covert human intelligence source (CHIS), then the investigation and any staff involved must comply with the Regulation of Investigatory Powers Act 2000 (RIPA). *See Note 2 below.*

Note 2.

In order to comply with the RIPA, the officers responsible for carrying out any surveillance or for requesting the use of a CHIS must make a written application for authorisation.

There are separate forms for authorising surveillance and for authorising the use of a CHIS. *Refer to Kennet's RIPA Code of Practice for the relevant documents.*

The above forms must be signed by an Authorised Officer prior to any work being carried out. *NB: the legal department will hold a list of each service's designated authorised officers.*

Note 3.

Recording of Information

The Criminal Procedures and Investigations Act 1996 (CPIA) requires that all information and material relevant to a case "must be recorded at the time it is obtained or as soon as is practicable after that time".

Retention of Material

All material relevant to an investigation must be retained until a decision has been taken whether to institute proceedings against a person. If the investigation results in court proceedings, the material must be retained at least until after the defendant is acquitted or convicted or the prosecutor decides not to proceed. Where the defendant is convicted, material must be retained until the person is released from custody or six months from the date of conviction, in all other cases.

Preparation of Material for Prosecutor

Material which may be relevant to an investigation but will not form part of the prosecution case (unused material) must be listed on a schedule. There should be two schedules – one for non-sensitive material (which must include a statement that the Investigating Officer does not believe the material is sensitive) and another for sensitive material.

All material must be disclosed to the accused for their inspection or for them to receive a copy. In the case of sensitive material, the accused can only view this on the order of the court.

For further explanation of the requirements of the CPIA see the Code of Practice, held in the Internal Audit library.

Note 4.

Code B is the particularly relevant part of PACE when considering the seizure of evidence from premises. *See either page 4 of Kennet's Investigative and Interviewing Skills document or the relevant section in your copy of the PACE Codes of Practice.*

Note 5.

PACE Code C relates to the questioning of suspects and how to keep an accurate record of the interview. *Refer to pages 22 to 24 on how to apply Code C during an interview or your copy of the PACE Codes.* **REMEMBER TO READ THE PACE CAUTION TO THE SUSPECT PRIOR TO COMMENCING ANY INTERVIEW.**

PACE Code E governs the procedures to be followed when conducting a tape-recorded interview. *Refer to your copy of the PACE Codes for a full explanation of this.*

