



**OFFICE OF THE  
DEPUTY PRIME MINISTER**

The Chief Executive to the County Council  
The Clerk to the Fire and Civil Defence  
Authority  
The Clerk to the London Fire and  
Emergency Planning Authority  
The Clerk to the Combined Fire Authority  
The Chief Fire Officer

Martin Hill  
Fire Legislation Safety & Pensions Division  
Office of the Deputy Prime Minister  
Zone 17/B  
Portland House  
Stag Place  
LONDON SW1E 5LP

Direct line: 020 7944 8641  
Fax: 020 7944 5599  
E-Mail: [Martin.Hill@odpm.gsi.gov.uk](mailto:Martin.Hill@odpm.gsi.gov.uk)

Web site: [www.odpm.gov.uk](http://www.odpm.gov.uk)  
28th January 2004

**FIRE SERVICE CIRCULAR No 3/2004**

**REGULATION OF INVESTIGATORY POWERS ACT 2000**

**Introduction**

1 The Regulation of Investigatory Powers Act 2000 (RIPA) provides for, and regulates the use of, a range of investigative powers, by a variety of public authorities. It covers the interception of communications to take account of technological change such as the growth of the Internet and also puts other intrusive investigative techniques on a statutory footing for the very first time; and ensures that there is independent judicial oversight of the powers in the Act.

2 In December 2003 the original Orders which prescribed authorising officers for the listed public authorities were repealed and three new Orders were created which added the Fire Authorities for certain purposes. The Orders came into force on 5 January 2004 (see the HMSO web page <http://www.hmso.gov.uk/legislation/whatsnew.htm> ).

3 We are not creating new powers to gather information and data but are providing for existing powers to be regulated by RIPA

**Requests for Data Relating to 999/112 Calls**

4 It is our understanding that RIPA has no impact on the existing protocols relating to requests for data when responding to an emergency (999/112) call where the caller has cleared the line before giving adequate details about the location at which a fire appliance is required. These requests will continue to be dealt with under the Data Protection Act. The procedure is set out in the Code of Practice for the Public Emergency Call Service between Public Network Operators and the Emergency Services.

5 However, there appears to be some uncertainty about the impact of RIPA amongst the telecommunication operators, and we are seeking clarification from the Home Office. An amended Code of Practice will be issued as soon as possible setting out the position agreed with the Home Office.



## **The RIPA Orders**

### **6 The Regulation of Investigatory Powers (Communications Data) Order 2003 (Statutory Instrument No. 3172).**

Communications data is information held by communications service providers relating to the communications made by their customers. This includes itemised call records, routing information and subscriber details. Communications data does not include the content of any communication. The Order places restrictions on who may authorise applications, on the types of communications data that can be accessed and the purposes for which data can be accessed. The two main grounds for Fire Authority applications are - in the interests of public safety and preventing or detecting crime. Acquiring data must be proportionate to what is sought to be achieved. In operational terms this would cover such things as :

- during a fire investigation obtaining contact details in order to speak to whoever reported the fire to help piece together the sequence of events;
- to investigate hoax and malicious calls.

### **7 The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003 (SI No. 3171) and The Regulation of Investigatory Powers (Intrusive Surveillance) Order 2003 (SI No. 3174).**

These two Orders relate to activities where it is necessary to carry out surveillance of premises or undercover work to gather information if the need for or level of fire certification is in doubt when other means of doing so are neither available nor appropriate. The grounds for fire authority requests are on the basis of public safety or preventing or detecting crime.

8 RIPA is consistent with the Human Rights Act 1998. It explains the duties and responsibilities placed upon each party involved in the process and creates a system of safeguards, reflecting the requirements of Article 8 of the European Convention on Human Rights (ECHR). The purpose of the orders is to provide those public authorities that carry out these functions with statutory ECHR cover for their activities.

### **Single Point of Contact (SPOC)**

9 Fire Authorities will be required to appoint one or more people to fulfil the role of SPOC. The role involves liaison with each communications provider to obtain the required data. Staff providing the SPOC function will need to undertake Home Office accredited training and follow the guidelines set out in the codes of practice for accessing communications data and Directed Surveillance and Covert Human Intelligence Sources. Each SPOC will be issued with an accredited PIN number after passing an end of course examination.

10 The telecommunications industry has indicated that it will only deal with Home Office accredited officers. During an initial period while organisations arrange for their SPOCs to receive training the Home Office will maintain a list of the contact details supplied for those nominated as SPOCs against which telecommunications providers will check identity.

**ACTION:** If you have not yet supplied the name and full contact details of the person nominated as the SPOC please forward this information to [regina.haba@ODPM.gsi.gov.uk](mailto:regina.haba@ODPM.gsi.gov.uk) as soon as possible.

11 Details of the training course for access to communications data together with an application form and course dates are attached. The training company, FOCUS (tel: 01527 578778), who carried out the training needs analysis for the Home Office will be able to advise on the additional one day training required for authorisations relating to directed surveillance and covert human intelligence sources.

### **Access to Communications Data**

12 A RIPA request will replace authorisation under the Data Protection Act. Fire Authorities can acquire all types of communication data. For these purposes, communications data includes information relating to the use of a telecommunication system but does not include the contents of the communication itself. The Home Office has produced a draft code of practice which is attached for reference.

13 **Authorisation level:** This is set at Divisional Officer 2 or Principle Fire Control Officer (or above). The Act provides two different ways of authorising access to communications data; through an authorisation under section 22(3) and by a notice under section 22(4). An authorisation would allow the Fire Authority to collect or retrieve the data itself. Whereas a notice is given to a telecommunications operator and requires that operator to collect or retrieve the data and provide it to the Fire Authority.

14 Copies of the draft forms for authorisations and notices under RIPA sections 22(3) and 22(4) are attached. The Home Office recommends that public authorities should add any information that is relevant to their organisation to the forms but avoid deleting existing information boxes.

15 The Code of Practice also sets out the protocol for an application to be made and approved orally in urgent cases for the purposes set out in section 22(2)(g) of the Act. This is where subscriber/location information is necessary 'for the purpose, in an emergency, of preventing death or injury or any damage to a person's physical or mental health' i.e. to be able to respond to a 999/112 call. In such cases a request for subscriber/location details can be authorised by a Fire Control Officer (or above).

### **Directed Surveillance and Covert Human Intelligence Sources**

16 In exercise of their statutory duty to enforce fire safety legislation (notably the Fire Precautions Act 1971), fire authorities may have cause to use directed surveillance and/or covert human intelligence sources. Examples may be the need to observe premises to ascertain their use or for an officer to engage a responsible person in conversation (either in person or by telephone), without disclosing their position as an inspecting officer (or other person acting for the fire authority), and so applicability of general fire safety legislation.

17 In cases where use of directed surveillance or covert human intelligence sources appears necessary, fire authorities must have regard to the relevant codes of practice on covert surveillance and the use of covert human intelligence sources. Copies can be purchased from the Stationery Office, cost £3.95 each:

Covert surveillance code: ISBN 0-11-341284-3  
CHIS code: ISBN 0-11-341285-1

18 Standard forms for use by all public authorities can be found on the Home Office web site, <http://www.homeoffice.gov.uk/crimpol/crimreduc/regulation/forms/index.html>  
The forms are an indication of the information required before an authorisation can be granted and are consistent with the requirements in the codes of practice. The Home Office recommends that users of the form should add any information that is relevant to their organisation but avoid deleting information boxes.

### **List of attachments**

19 Covert Human Intelligence Sources Code Of Practice

Covert Surveillance Code Of Practice

Notice Requiring Disclosure Of Communications Data (Under Section 22(4))

Notice Requiring Disclosure Of Communications Data (Under Section 22(3))

FOCUS Single Point of Contact Accreditation course details

FOCUS schedule SPOC training dates

FOCUS Booking form and conditions (separate documents)

Accessing Communications Data Draft Code of Practice

### **Further Information**

20 If you have any queries please contact:

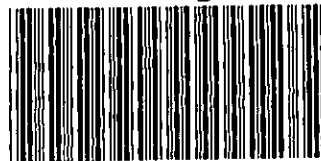
Access to Communications Data: Martin Hill, FLSP, tel: 020 7944 8641.

Directed Surveillance and Covert Human Intelligence Sources: Andy Jack, FLSP, tel: 020 7944 6632.

Yours faithfully

**Martin Hill**

**The Fire Service  
College**



**00151224**

---