



# ISLINGTON

FINANCE DEPARTMENT  
222 Upper Street, London N1 1XR

Report of: Director of Finance

Meeting of	Date	Agenda Item	Ward(s)
Standards Committee	11 October 2005		

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## Subject: Regulation of Investigatory Powers Act

### 1. Synopsis

- 1.1 This report sets out the requirements of the Regulation of Investigatory Powers Act 2000 (RIPA) and indicates how Islington is complying with the Act's requirements.

### 2. Recommendation

- 2.1 That the Committee note the contents of this report.

### 3. Background

- 3.1 The main purpose of RIPA was to ensure that relevant investigatory powers are exercised in accordance with the Human Rights Act and the European Charter of Human Rights.
- 3.2 The Director of Law and Public Services has issued procedural guidance in respect of this legislation to those areas within Islington Council that may be engaged in activity covered by RIPA. This guidance is in the process of being updated but is attached at **Appendix 1** for reference.
- 3.3 Islington is legally bound by the terms of RIPA; one of which is to maintain a central register of authorisations to conduct directed or intrusive surveillance, or to instruct the use of covert human intelligence source. This register is maintained by Internal Audit and has been in operation since April 2003.
- 3.4 Internal Audit undertake an annual review to verify that the register is an accurate record of the work being carried out by the service areas within Islington that involve an element

of surveillance work. Furthermore, this year's review sought to confirm that the correct documentation, properly completed and authorised was used and to ensure that the required statutory deadlines were met.

3.5 Following observations made by the Surveillance Commissioner in their report of May 2004, it was decided to also report how service areas had addressed the report's recommendations concerning:

- the consideration of proportionality as part of the RIPA application
- guidance for accessing communications data.

## **4. Findings**

4.1 The central register was found to be an accurate record of surveillance work carried out by Islington in 2004/05, except for one area. This area had experienced a number of personnel changes and whilst they had maintained the proper documentation, Internal Audit were not notified of their activities and these were not reflected in the central register. This has now been rectified.

4.2 Every application detailed the reason why surveillance was considered necessary and proportionate and described the nature of surveillance required.

4.3 In a number of minor instances an absence of expected documentation was found in respect of:

- cancellation forms, where surveillance ceased prior to the authorised date
- documentary evidence that RIPA applications were reviewed by the authorised officer on a regular basis.

4.4 Internal Audit recommendations, following this review, have been accepted and implemented by management within the relevant service areas.

## **5. Conclusion and reason for recommendation**

5.1 In general, the requirements of RIPA are being met. Officers, however, need to remain vigilant in ensuring that reporting and monitoring requirements are adhered to.

## **6. Implications**

### **6.1 Financial Implications**

6.1.1 There is no provision within existing departmental budgets should a claim be made against the Council for a major breach or non-compliance with the legislation. If successful, any such claim would have to be met from existing departmental funds.

### **6.2 Legal Implications**

6.2.1 Covert surveillance undertaken by officers of the Council or private investigators employed by the Council must be authorised. The authorising officer must be satisfied that the surveillance is proportionate and that the subject's Article 8 right to respect for private and family life will not be breached.

6.2.2 If covert surveillance is not validly authorised, the Council could face a claim for damages for misuse of powers and infringement of Article 8 rights.

6.2.3 The Council will often seek to rely on the evidence gathered from covert surveillance to secure a successful prosecution. If the covert surveillance has not been validly authorised, it would open a court to reject the evidence.

### **6.3 Equality Implications**

6.3.1 All individuals, the subject of such activity, are entitled to be treated in accordance with the Articles enshrined within the European Convention of Human Rights.

#### **Final Report Clearance**

**Signed by:** John Jones, Interim Director of Finance

**Date:**

**Report Author:** Jim Hodges, Chief Internal Auditor

**Background Papers:** Internal Audit Report

**Date:** 28 September 2005