

SAFER AND STRONGER COMMUNITIES SCRUTINY COMMITTEE **13th February 2012**

Report on the use of the Regulation of Investigatory Powers Act 2000 by Oxfordshire County Council

Report by Director of Social and Community Services

Introduction

1. The Regulation of Investigatory Powers Act 2000 ('the Act') creates the legal framework for the lawful use of covert surveillance and access to telecommunications data by public authorities. Prior to the introduction of this Act, the use of covert surveillance and access to communications data were not controlled by statute. Codes of Practice issued under this Act contain the detail that public authorities must have regard to when using covert surveillance or accessing communications data.
2. There is no direct sanction against Local Authorities within the Act for failing to comply with its provisions. Nevertheless covert surveillance or accessing communications data by its nature is an interference of a person's right to a private and family life guaranteed under Article 8 of the European Convention on Human Rights. The consequences of not obtaining prior authorisation in accordance with the Act may mean that the action is unlawful by virtue of Section 6 of the Human Rights Act 1998 i.e. a failure by the Authority to conduct this work in accordance with human rights conventions.
3. The Codes of Practice under the Act require that elected members review the Authority's use of the Act periodically and review the Authority's policy annually. This paper provides a summary of the activities undertaken by Oxfordshire County Council that fall within the scope of this Act for the period from October 2010 to July 2011 inclusive.

Exempt Information

This report contains no exempt information.

Use of the Act by Oxfordshire County Council

4. The table below summarises the applications for activities falling within the scope of the Act that have been considered by the designated authorising officers. Some explanation of common activities may assist in understanding the activities concerned.
5. Under-age sales test purchasing in shops. Trading Standards will carry out test purchases of age restricted goods on a number of occasions throughout the year. Such test purchases are one aspect of the work that the service

carries out with the aim of reducing the availability of age restricted goods to persons below the legal minimum age. The age restricted goods concerned may include cigarettes, knives, alcohol, fireworks and solvents. Test purchasing and other activities are carried out in order for the service to meet its responsibilities to enforce age restricted sales legislation and to support community safety strategies.

6. Premises are selected for test normally as a result of intelligence or complaints from the public, but some routine market surveillance is also carried out. The operation involves a young volunteer attempting to buy the age restricted product whilst being observed by a trading standards enforcement officer. The surveillance being authorised is the observation of the young volunteer attempting to purchase an age restricted product. This takes place in the open area of the shop and no surveillance takes place other than in areas of the premises that the public can enter. Therefore, the actual surveillance is of minimal intrusiveness. No recording equipment is used.
7. Should a premises fail a test purchase officers will investigate the circumstances of the sale (e.g. what training has been provided to the sales assistant concerned, what policies and procedures have been adopted by the business, etc.). When test purchasing alcohol, we normally work with the Police and the sales assistant who sells the product will be issued with a fixed penalty notice by the Police Officer present. Following investigation of the circumstances of the sale a decision is made on the most appropriate course of action to take to prevent further illegal sales by the business.
8. Doorstep crime related surveillance. It is known that doorstep criminals repeat victimise vulnerable people. Frequently, Trading Standards is made aware of an incident at a time when it is suspected that the suspect will return, normally to attempt to obtain further money from the victim. In these circumstances surveillance is carried out at the victim's home, with their consent, to attempt to identify and detain the suspect. The victim's family and regular visitors to the victim's property are made aware of the surveillance in order to minimise intrusion.
9. Please note that the following summary does not include authorisations granted in relation to matters that may result in legal action where reporting the surveillance might compromise any such legal action.

Date	Service requesting authorisation	Description of activity	Granted/ refused	Outcome
25/1/11	Trading Standards	Visits to a residential address in Oxford in order to note details of cars associated with the property. Allegation received that the occupier of the property is operating a car sales business from his home misleading sellers that the cars being sold are private sales.	Granted	Details of vehicles associated with premises obtained but these failed to establish that cars were being sold at the address.

19/5/11	Trading Standards	Installation of a covert camera to record visitors to a doorstep crime victim's property (Bladon).	Granted	Suspects did not return to property. Camera removed.
16/6/11	Trading Standards	Installation of a covert camera to record visitors to a doorstep crime victim's property (Abingdon).	Granted	Suspects did not return to property. Camera removed.
13/7/11	Trading Standards	Under-age sales test purchasing exercise relating to cigarettes and vending machines. Oxford/ Bicester. (16 premises)	Granted	8 premises tested. Sale at one premises only. Premises owners warned.
13/7/11	Trading Standards	Under-age sales test purchasing exercise relating to cigarettes. Oxford. (1 premises)	Granted	8 premises tested. 1 sale. Premises owners warned.
19/8/11	Trading Standards	Installation of a covert camera to record visitors to a doorstep crime victim's property (Blewbury).	Granted	Camera activated by return of suspect but identity not confirmed.
23/8/11	Trading Standards	Authorisation to develop contact with Facebook user alleged to be selling counterfeit products via Facebook.	Granted	Facebook page removed before officer established contact.
13/10/11	Trading Standards	Under-age sales test purchasing exercise relating to cigarettes. Oxford/ Abingdon/ Didcot/ Witney/ Grove. (9 premises)	Granted	8 premises tested. 2 sales, 6 refusals. Premises owners warned and repeat tests to be arranged.
2/11/11	Trading Standards	Installation of a covert camera to record visitors to a doorstep crime victim's property (Ducklington)	Granted	Camera not activated and removed.
2/11/11	Trading Standards	Under-age sales test purchasing exercise relating to fireworks. Oxford/ Abingdon/ Bicester/ Chipping Norton. (10 premises).	Granted	No sales made.
18/12/11	Trading Standards	Under-age sales test purchase exercise relating to tobacco products. 4 premises (Oxford).	Granted	2 sales made. 2 refusals. Premises owners visited and warned.
18/12/11	Trading Standards	Under-age sales test purchase exercise relating to alcohol. Oxford. (6 premises).	Granted	1 sale made. Premises owners advised and premises to be retested.
18/12/11	Trading Standards	Under-age sales test purchase exercise relating to alcohol. Banbury. (18 premises).	Granted	10 premises visited. 1 sale. Premises owner warned and follow-up test planned.

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Background papers: None

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