

Circular number	<b>14/2008</b>	Date issued	<b>10 April 2008</b>
This circular is	<b>Request for information</b>	Respond by	<b>28 April 2008</b>
This circular is	<b>Relevant to the National Framework</b>		
Status	<b>This Circular sets out proposals by Home Office in conjunction with ACPO to access to powers under the Regulation of Investigatory Powers Act 2000.</b>		

# Changes to powers under the Regulation of Investigatory Powers Act 2000

## Issued by:

**Rhian Blackman**

**Fire and Resilience Directorate**

## Addressed to:

**The Chair of the Fire and Rescue Authority  
The Chief Executive of the County Council  
The Clerk to the Fire and Rescue Authority  
The Clerk to the Combined Fire and Rescue Authority  
The Commissioner of the London Fire and Emergency Planning Authority  
The Chief Fire Officer**

## Please forward to:

**Officers responsible for compliance with the Regulation of Investigatory Powers Act 2000**

## Summary

This Circular sets out proposals by Home Office, in conjunction with ACPO, regarding access to powers under the Regulation of Investigatory Powers Act 2000. It asks Fire and Rescue Authorities to provide information about current use of surveillance and communications powers and whether it is necessary to retain access to these powers in the future.

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## Changes to powers under the Regulation of Investigatory Powers Act 2000

### 1.0 Background

- 1.1 The Home Office in conjunction with the Association of Chief Police Officers (ACPO), the Local Authorities Co-ordinating Body on Food and Trading Standards and Government National Investigators is reviewing the use of the Regulation of Investigatory Powers Act 2000 (RIPA) by public authorities.
- 1.2 RIPA was specifically enacted to provide a statutory basis to enable certain public authorities, engaged in conducting investigations involving the use of specified covert activities to interfere with the rights of individuals under article 8 of the European Convention on Human Rights (right to respect for private and family life) in a manner that nevertheless complies with Human Rights legislation.
- 1.3 A review undertaken in 2004 identified that over time an unintended disparity has emerged in the way different public bodies undertake covert activities. The review made a number of recommendations proposing changes to the legislation, improving the guidance and advice available, and changes in relation to reducing the bureaucratic burden and the associated costs.

### 2.0 Approach

- 2.1 The Home Office and ACPO are now seeking to implement these recommendations by:
  - Providing greater consistency in the way RIPA is interpreted;
  - Eliminating unnecessary bureaucracy and reducing associated costs;
  - Providing a more effective piece of legislation;
  - Giving consistent guidance to the RIPA users in relation to the use of covert techniques; and,
  - Raising the standard of covert activity undertaken in the UK.

### 3.0 Surveillance powers of Fire and Rescue Authorities

- 3.1 The process of providing a more effective piece of legislation includes the Home Office ensuring that the powers provided by RIPA are only held by the public authorities that require them. It is questionable whether there is still a requirement for Fire and Rescue Authorities to retain the powers granted by Part II of RIPA.
- 3.2 The Regulatory Reform (Fire Safety) Order 2005 provides a statutory basis to obtain information and enforce the legal requirements without the need for covert surveillance. There may, however, be a need to retain the powers in order to conduct covert surveillance which is likely to interfere with an individual's private life for the enforcement of current explosives and petroleum regulations.

### 4.0 Communications powers of Fire and Rescue Authorities

- 4.1 In addition it has been suggested by some Fire and Rescue Authorities that they may no longer require the power to obtain telecommunications data. The emergency services are not required to use their RIPA powers during the “golden hour” to acquire emergency data as part of call handling of an emergency call. However it is unclear to some whether there is still a requirement to access such data for hoax calls, and to conduct investigations following a breach of the Fire and Rescue Services Act 2004 or any other related legislation e.g. during a fire investigation to obtain contact details of the person who reported the fire to help piece together the sequence of events.
- 4.2 ACPO has indicated a desire for all emergency services to retain their ability to acquire data to deal with the rise in hoax calls.
- 4.3 In relation to the power under RIPA to obtain telecommunications data (which is used, for example, in order to trace hoax calls) it will be necessary to review whether the present authorisation level, currently a Fire Control Officer is appropriate. It has been suggested that this should be reduced to a senior Fire Control Operator.

### 5.0 Request for feedback

- 5.1 It is therefore necessary to seek the views of the Fire and Rescue Authorities in relation to these issues to help Home Office determine whether the requirement for RIPA powers still exists and, if so, how that requirement can be appropriately reflected in the legislation.
- 5.2 It is requested that any comments, either positive or negative, in relation to this issue be sent direct to the Home Office. Please send them to [Nadine.hibbert@homeoffice.gsi.gov.uk](mailto:Nadine.hibbert@homeoffice.gsi.gov.uk) by 28 April 2008.
- 5.3 Please accept our apologies for giving you very little time to respond.

**Rhian Blackman**

**Fire and Resilience Directorate**