

Local Government Association

From the Chairman of the Association, Sir Simon Milton

20th June 2008

Dear Colleague

As you know, the use by councils of surveillance powers under the Regulation of Investigatory Powers Act (RIPA) has attracted a substantial amount of publicity. Most of this has been negative and also often grossly inaccurate: but the news stories have also stimulated public debate and comment concentrating on the line that councils are misusing their powers. The overall effect in terms of the reputation of local government had regrettably been quite damaging.

Parliament clearly intended that councils should use the new powers, and generally they are being used to respond to residents' complaints about fly tippers, rogue traders and those defrauding the council tax or housing benefit system. Time and again, these are [the] just the type of crimes that residents tell us that they want to see tackled. Without these powers, councils would not be able to provide the level of reassurance and protection local people demand and deserve.

The Act also requires that the powers should only be used when "necessary and proportionate to prevent or detect a criminal offence" and you will all know of the examples where councils have been criticised for using the powers in relation to issues that can be portrayed as trivial or not considered a crime by the public.

My purpose in writing is to ask that you satisfy yourself that the use of these powers is only being authorised after the most careful consideration at the appropriate senior political and managerial level. It would also be helpful if you could review existing permissions to ensure that their continuance meets the "necessary and proportionate" test. Perhaps you might consider reviewing these powers annually by an appropriate scrutiny committee or panel of your council which could invite evidence from the public. Whilst it is a matter for each council to determine for its area, our advice is that, save in the most unusual and extreme of circumstances, it is inappropriate to use these powers for trivial matters.

The leaders of the four political groups at the LGA and I have discussed this issue, in conjunction with the Local Authorities Co-ordinators of Regulatory Services (LACORS), and, specifically, we do not consider dog fouling or littering as matters which fall within the test of "necessary and proportionate"

The LGA and LACORS are working with the Government, police chiefs and the Chief Surveillance Commissioners to clarify some of the details of the legislation and make sure it is clear when and how surveillance should be used. By their nature, surveillance powers are never to be used lightly but it is important that councils don't lose the power to use them when appropriate. It is not right that councils are being tarred with accusations of using 'anti-terror' powers to investigate local crime when they are doing nothing of the sort. Equally it is important that they use these powers carefully and appropriately and we will be working with you to help enable that.

I hope you will be able to help in the manner I have suggested. Obviously in writing to you I am doing so with the support of all four group leaders here: we would be pleased to hear from you if you have any comments following your review or further suggestions on how as a sector we might ensure that councils' use of these new powers has general public support.