



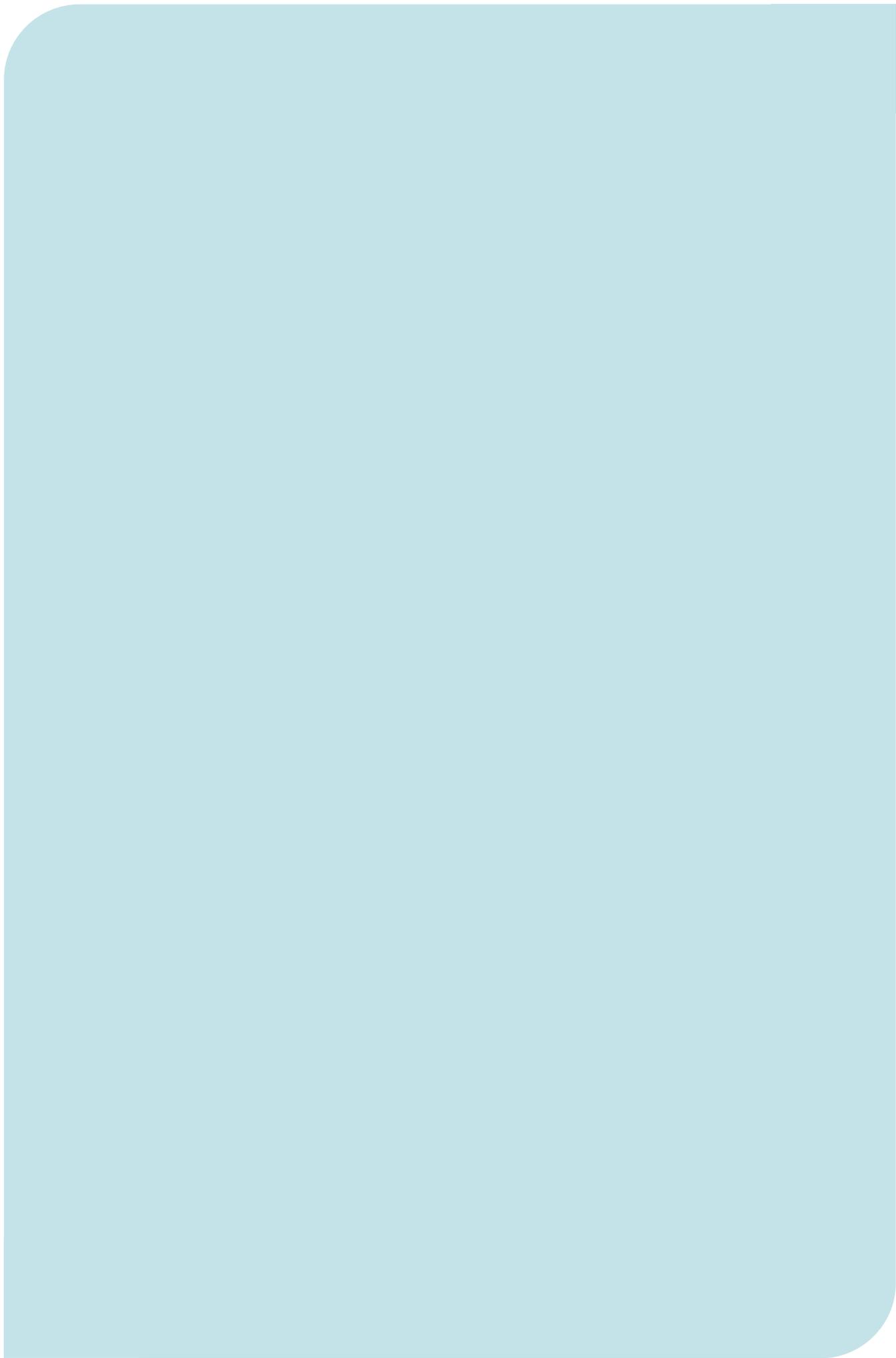
Office of Surveillance  
Commissioners

# ANNUAL REPORT

of the Chief Surveillance Commissioner  
to the Prime Minister and  
to Scottish Ministers  
for **2009-2010**

HC 168

SG/2010/66



# ANNUAL REPORT

of the Chief Surveillance Commissioner  
to the Prime Minister and  
to Scottish Ministers  
for **2009-2010**

Chief Commissioner:

**The Rt. Hon. Sir Christopher Rose**

Presented to Parliament by the Prime Minister  
pursuant to section 107(3)  
of the Police Act 1997

Ordered by the House of Commons  
to be printed on 27<sup>th</sup> July 2010

Laid before the Scottish Parliament  
by the Scottish Ministers  
July 2010

HC 168  
SG/2010/66

London: The Stationery Office

£14.75

**© Crown Copyright 2010**

The text in this document (excluding the Royal Arms and other departmental or agency logos) may be reproduced free of charge in any format or medium providing it is reproduced accurately and not used in a misleading context.

The material must be acknowledged as Crown copyright and the title of the document specified.

Where we have identified any third party copyright material you will need to obtain permission from the copyright holders concerned.

ISBN: 9780102965131

Printed in the UK by The Stationery Office Limited  
on behalf of the Controller of Her Majesty's Stationery Office

ID P002363330 07/10

Printed on Paper containing 75% recycled fibre content minimum.

# Contents

	<i>Page</i>
<b>1. Introduction</b>	3
<b>2. Overview of the year</b>	4
<b>3. Particular matters relating to the OSC</b>	5
Reporting irregularities	5
Reporting to the Prime Minister and Scottish Ministers	6
The status of OSC guidance	6
Inspection Programme	7
Commissioners' Meetings	7
Presentations and conferences	7
Liaison	7
OSC website	8
Changes in personnel	8
Recognition	8
Expenditure	8
<b>4. Statistics relating to the use of property interference and covert surveillance (including the use of CHIS and s.49 encryption)</b>	9
General	9
Property interference	9
Intrusive surveillance	10
Urgency provisions	10
Directed surveillance	10
CHIS	10
Section 49 – encryption	11
<b>5. Key issues arising from my inspections</b>	11
Overview	11
Legislation	11
Common causes of error or criticism	12
Technical support	14
The effect of section 80 RIPA and section 30 RIP(S)A	14
Local authority use of covert surveillance	14
CCTV	15
Freedom of information	15
<b>6. The year ahead</b>	16

## Appendices

<b>Appendix A</b>	Authorisations given under Part III of the Police Act 1997 (as amended) during the last three years	17
<b>Appendix B</b>	Analysis by offence of authorisations given under Part III of the Police Act 1997 (as amended) during the last three years	18
<b>Appendix C</b>	Authorisations given under Part II of the Regulation of Investigatory Powers Act 2000 and the Regulation of Investigatory Powers (Scotland) Act 2000 during the last three years	19
<b>Appendix D</b>	Analysis by offence of authorisations given under Part II of the Regulation of Investigatory Powers Act 2000 and under the Regulation of Investigatory Powers (Scotland) Act during the last three years	20
<b>Appendix E</b>	Inspection priorities	21
<b>Appendix F</b>	OSC Expenditure	23
<b>Appendix G</b>	Members of the Office of Surveillance Commissioners	24



## 1. Introduction

- 1.1** This is my fourth report since taking up my appointment as the Chief Surveillance Commissioner in July 2006 and relates to the period 1st April 2009 to 31st March 2010.
- 1.2** It is my duty to keep under review:
- (a)** The performance of functions under Part III of the Police Act 1997 ('PA 97');
  - (b)** (except in relation to the interception of communications and intelligence services) The exercise and performance of the powers and duties conferred or imposed by or under Part II of the Regulation of Investigatory Powers Act 2000 ('RIPA'); and
  - (c)** The exercise and performance of the powers and duties conferred or imposed by or under the Regulation of Investigatory Powers (Scotland) Act 2000 ('RIP(S)A').
- 1.3** This covers the covert activities (except telephone and mail interception) carried out by all public authorities, except the intelligence services. This also includes Part III of RIPA relating to protected electronic information.
- 1.4** The powers and duties of the Surveillance Commissioners ('the Commissioners') in scrutinising, and deciding whether to approve authorisations under PA 97 (property interference) and under RIPA and RIP(S)A (intrusive surveillance) have been explained in earlier reports and are publicly available on our website. There is a right of appeal against their decisions to me. There have been no appeals lodged during this reporting period.
- 1.5** Whilst outside the period covered by this report, from 6th April 2010, public authorities are required to comply with an enhanced authorisation regime in relation to directed surveillance and Covert Human Intelligence Source ('CHIS') activity where legal consultations may take place or matters subject to legal privilege may be obtained.
- 1.6** In performance of my duty under all three Acts to report annually, I continue to prepare a combined report.

## 2. Overview of the year

- 2.1** The statistics relating to property interference and intrusive surveillance are set out in section 4 below.
- 2.2** The numbers of authorisations for directed surveillance and the use of CHIS are set out in section 4 below.
- 2.3** Towards the end of the reporting period, new legislation was either published or was due for publication. The Policing and Crime Act, in so far as it revises RIPA, should enable joint operations and investigations to be conducted without a convoluted process of authorisation. The revised codes of practice provide some improvement on preceding versions and there are enhancements to the authorisation of surveillance or use of CHIS in relation to matters relating to legal privilege and places where legal consultation may take place.



### 3. Particular matters relating to the OSC

#### *Reporting irregularities*

- 3.1** I continue to require Chief Officers personally to report to me all covert operations in which statutory requirements have not been observed and also cases in which trial judges exclude the product of covert surveillance because of the way in which it is obtained. Where the author of a report is not the Chief Officer, I have no guarantee that he has seen it.
- 3.2** Of the 78 irregularities reported to me during the reporting period only three were first identified on inspection. This is a positive indication that public authorities' internal audit procedures are effectively identifying activity which is not compliant with legislation. Twenty-four were from a single local authority that, having read the OSC Procedures and Guidance, recognised that some of its test purchase operations were capable of being construed as directed surveillance. These irregularities are a tiny percentage of the total number of authorisations granted in the same period and should provide reassurance that public authorities are not abusing the legislation.
- 3.3** It would be inappropriate to reveal details because it would compromise some investigative techniques and tactics. Suffice to say that 19 breaches related to property interference; three to combined property interference and intrusive surveillance; 52 to directed surveillance (including the 24 test purchase operations already mentioned); and four to CHIS activity. The shortest period of unauthorised surveillance lasted 55 minutes and the longest 24 days. The brief categories are:

Failure to authorise or an authorisation of the wrong type	34
Failure to renew or continued beyond the expiry date	10
Surveillance beyond the parameters granted	8
Surveillance against a target or property interference in a place not specified in the authorisation	8
Surveillance commenced before formal authorisation	4
Other	12
Authorising officer not of the prescribed grade or rank	2

- 3.4** There have been too many occasions when unauthorised activity is casually explained as ‘not being used for evidence’ or that the product obtained was of ‘insufficient value’ or that ‘no product was obtained’. If activity is not obtaining a valuable product, it is logical to question whether the Authorising Officer was correctly satisfied that it was necessary and proportionate. I will examine closely those authorities which report unauthorised activity in these circumstances. I will examine more closely those authorities which are found, on inspection or as a result of the notification of investigations by others, to have avoided reporting unauthorised activity.

### *Reporting to the Prime Minister and Scottish Ministers*

- 3.5** During the reporting period, I have not made a report to the Prime Minister or Scottish Ministers about any of the matters with which I am concerned. Last year, I said that I was actively considering such a report. I decided against a report when the public authority concerned, on re-inspection, provided sufficient evidence of improvement.

### *The status of OSC guidance*

- 3.6** The wording of the legislation does not assist in the provision of definitive responses to all hypothetical scenarios. My inspections are and will continue to be based on the most authoritative and current judicial interpretation of the legislation. In the absence of relevant judicial decisions, my Commissioners form, and from time to time publicly express, views about the meaning of the legislation in relation to particular factual scenarios. The most recent Guidance from the OSC was published in December 2008 and this is updated from time to time.
- 3.7** I made clear, in last year’s report, that my responsibilities are limited. However, I am concerned that some applicants and Authorising Officers in public authorities other than law enforcement agencies claim to be unaware of OSC Guidance or complain that they are waiting for guidance from others. In cases where interpretations differing from OSC Guidance are relied on by public authorities my Inspectors will always base their findings on OSC Guidance.
- 3.8** I remind all national bodies, that the law obliges an Authorising Officer to satisfy his own mind; he is not to be dictated to or obliged to follow any particular interpretation. There is good reason why my Commissioners are required to have held high judicial office. In the absence of case law, collectively they are likely to provide the most accurate interpretation of the legislation. It is unacceptable to me that others should offer conflicting interpretations because this causes confusion for the authorities which I inspect. National bodies can fulfil an important role in promoting conformity of practice but they do not have my statutory responsibility of oversight.

### *Inspection Programme*

- 3.9** The public authorities which I currently inspect are shown at Appendix E. I am unable to conduct inspections of the public authorities newly included in the amended Schedule 1 of RIPA until the 2011/12 programme.
- 3.10** The frequency and style of my inspections has not changed. For law enforcement agencies, where appropriate, my Inspectors adopt a thematic approach to examine complex cases that involve a combination of property interference, intrusive and directed surveillance and the use of one or more CHIS. This provides the best test of processes but, with the limited resources available to me, it often reduces the time available to inspect all relevant parts of an authority. In larger law enforcement agencies I am only able to conduct a dip sample of authorisations. Other public authorities, generally speaking, engage in considerably less covert activity so a higher proportion of their authorisations can be examined on inspection.
- 3.11** I have still not been given the power to inspect local authorities in Northern Ireland but expect the Northern Ireland Executive to decide how these authorities will be inspected following publication of the Police (Northern Ireland) Act.

### *Commissioners' Meetings*

- 3.12** The Commissioners met on three occasions during this reporting period and the meetings were attended by the Assistant Commissioners, Inspectors, Secretary to the OSC and manager from my Secretariat. They continue to consider matters of interpretation of the legislation and its amendments, particularly in relation to problems frequently encountered on inspections. They occasionally consider requests received from authorities but I do not have the resources to provide a comprehensive advisory service: usually authorities should seek their own legal advice either in-house or from independent lawyers.

### *Presentations and conferences*

- 3.13** The Chief Inspector continues to be the main representative of the OSC at conferences and national training events. On two occasions he, and an Assistant Commissioner, provided presentations to local authority conferences which were well received. In total, he has presented to 38 courses or Conferences.

### *Liaison*

- 3.14** My Chief Inspector regularly attended meetings with the National Coordinator of Special Branches and the Security Service to ensure common standards of compliance. I also attended a meeting with the Intelligence and Security Commissioner and members of the Security Service to discuss issues of mutual interest. The Chief Inspector has held one Strategic Liaison meeting with representatives of the Home Office, ACPO, LACORS and Office of the Interception Commissioner.

### *OSC website*

**3.15** I have not had the capacity to improve the website as I had hoped; it is in need of an upgrade. During the reporting period there have been 21,112 visits and 17,986 visitors, a decrease of 1,760 and 1,487 respectively on the previous year. The most popular pages remain those covering advice and guidance. I intend to publish the next edition of my Procedures and Guidance on the site.

### *Changes in personnel*

**3.16** Since my last report, Sir Charles McCullough and Sir Philip Otton have both retired as Surveillance Commissioners. Each provided outstanding service to the OSC over periods of 11 and 9 years respectively. They have been succeeded by Sir William Gage (from 1 September 2009) and Sir George Newman (from 1 January 2010). Shortly after the end of the year to which this report relates, Viscount Colville of Culross, who had been an Assistant Surveillance Commissioner for 9 years and Sir Charles Mantell, who had been a Surveillance Commissioner for almost 4 years, each died suddenly; both were invaluable members of the OSC and will be greatly missed. Successors will be appointed in due course.

### *Recognition*

**3.17** I wish to record my thanks to the Commissioners, Assistant Commissioners and all other members of the OSC for the indispensable support which they have given me in performing my statutory role. My thanks go, likewise, to Andrew Burke, Protective Security Division, Northern Ireland and to the staff within the Police Division of the Scottish Government Justice Department for the invaluable administrative support they provide to the Commissioners based in Northern Ireland and Scotland respectively.

### *Expenditure*

**3.18** I summarise the expenditure of the OSC at Appendix F. At the end of the financial year 2008-2009 I requested an increase in our budget for 2009-2010 to cover the cost of an additional Inspector and a move to new, more suitable, office accommodation. An increase to £1.83 million was agreed. Our staff costs have been slightly lower than anticipated because of a staff vacancy in my Secretariat and a six month saving on the costs of the new Inspector. My office moved into new accommodation in January 2010, a move made necessary by the unsatisfactory state of our previous office space. We also incurred some costs associated with the move. IT and telephony costs continue to rise and our travel and subsistence costs have also risen, in part due to the recruitment of the additional Inspector. We have still come in well under budget.



## 4. Statistics relating to the use of property interference and covert surveillance (including the use of CHIS and s.49 encryption)

### *General*

- 4.1** Statistics for property interference and each type of covert surveillance authorisations for the past year are set out in tables at Appendices A – D. My statistics can only provide a general record and I will not rehearse the explanation, provided in earlier reports, of how they are obtained. Offences relating to drug trafficking, kidnap, murder and firearms continue to be major targets of authorisations. The increase in Part III (Police Act 1997) authorisations for burglary/robbery offences noted last year has been maintained and this year there is also a considerable increase in these authorisations for firearms offences. Authorisations granted under both Part III and Part II (RIPA and RIP(S)A 2000) for offences of assault have increased significantly. The apparent fall in terrorism offences referred to last year has been maintained and after a full investigation we can confirm that the high figures reported in 2006-2007 and 2007-2008 were inaccurate and actual numbers of authorisations granted for these offences were in line with the current figures.
- 4.2** Statistics for directed surveillance and use of CHIS have been supplied by all law enforcement agencies. After difficulties in obtaining information last year, I am very pleased to report that all other public authorities have responded to my request for this statistical information, so this year's figures are based on a 100% return.

### *Property interference*

- 4.3** Excluding renewals, there were 2,705 property interference authorisations during 2009-2010, which is almost the same number as the previous year when there were 2,681. There were 717 renewals of authorisations, compared with 666 in the previous year. 13 authorisations were quashed, where insufficient information was provided, a considerable increase on the five quashed in the previous year.

### *Intrusive surveillance*

**4.4** There were 384 intrusive surveillance authorisations granted in 2009-2010, coincidentally the same total number as in the previous year although in different parts of the UK numbers varied slightly from last year. Renewals of authorisations remained similarly stable, with 63 granted this year and 71 in the previous year.

### *Urgency provisions*

**4.5** There were 348 cases where the urgency provisions allowed for in the legislation were used. The increase in the number of these from just over 300 last year is mainly due to the large number of investigations into offences involving violence or drugs. Again a small number of forces account for the majority of these cases and I am satisfied that the provisions are not being misused.

### *Directed surveillance*

**4.6** Law enforcement agencies granted 15,285 directed surveillance authorisations during 2009-2010, and 2,343 were still in place at 31 March 2010. This compares with 16,118 and 2,708 respectively in the previous year, again showing a small decrease in activity.

**4.7** In relation to other public authorities 8,477 directed surveillance authorisations were granted during the year, of which 1,190 were still in place at the end of the reporting period. The 100% return rate this year gives a complete picture of the use of RIPA/RIP(S)A powers by public authorities and shows a decrease on the previous year when 9,894 authorisations were granted and 1,287 remained in place at the end of the reporting period. Of the 8,477 authorisations over 50% were by government departments. Generally speaking, local authorities use RIPA/RIP(S)A powers sparingly with over 50% granting five or fewer directed surveillance authorisations during the reporting period. Some 16% granted none at all.

### *CHIS*

**4.8** There were 5,320 CHIS recruited by law enforcement agencies during the year; 4,495 were cancelled (including some who were recruited during the previous year); and 3,767 were in place at the end of March 2010. The figures for the previous year which were 4,278, 4,202 and 3,722 indicate a slight increase in usage.

**4.9** During the current reporting year other public authorities recruited 229 CHIS of whom 182 were cancelled during the year with 90 in place on 31 March 2010. During the previous year 234 were recruited, 153 cancelled and 106 were in place at the end of the year. Again just over half of CHIS usage was by government departments. The light use of RIPA/RIP(S)A powers by local authorities is even more pronounced in relation to CHIS recruitment. 97% recruited five or fewer and 86% did not use CHIS.

## *Section 49 – encryption*

- 4.10** During the period reported on, NTAC granted 38 approvals. Of these, 22 had permission granted by a Circuit Judge, of which 17 have so far been served. Six were complied with and seven were not complied with, the remainder were still being processed. Of the seven that were not complied with, five people were charged with an offence, one was not charged and the other is still being processed. So far there has been one conviction with other cases still to be decided.
- 4.11** The conviction related to the possession of indecent images of children and this offence is the main reason why section 49 notices are served. Other offences include: insider dealing, illegal broadcasting, theft, evasion of excise duty and aggravated burglary. It is of note that only one notice was served in relation to terrorism offences.
- 4.12** These statistics are provided by NTAC which is able to be accurate regarding the number of approvals it has granted. But it is reliant on those processing notices to keep it informed regarding progress. It appears that there has been delay in serving some notices after approval has been granted (hence the difference between the number approved and the number served). Notices, once approved, should be served without delay. If delays continue, I will require an explanation.

## **5. Key issues arising from my inspections**

### *Overview*

- 5.1** I remain satisfied, in general, about the use made of the legislation for which I have oversight. In most cases the tests of necessity and proportionality are met and decision-making is of an acceptable standard. But it concerns me that some applicants and authorising officers continue to find difficulty in describing and specifying the particulars of each case in a manner that is bespoke to the particular investigation. I reported last year my deduction that this is probably the consequence of poor form design as well as of poor training. I have not detected a desire to alter national forms and remind all public authorities that they need not be constrained if the forms they use can be improved.

### *Legislation*

- 5.2** I welcome the revisions to RIPA by the Policing and Crime Act. This should help to reduce convoluted authorisation processes. I will examine the content of collaboration agreements between forces and police authorities to ensure that they accurately reflect the legislation. I will also adapt my inspections to ensure that regional alliances are inspected without unnecessary duplication.

- 5.3** I was asked to comment on early drafts of the codes of practice and, in general, was satisfied with the content presented. Much of the detail in the revised codes was influenced by the OSC Procedures and Guidance published in December 2008. But some aspects of the codes are not, in my view, helpful: some of the examples provide interpretation of the legislation which is questionable; and it is important to bear in mind that the examples are, expressly, not to be regarded as part of the codes. Public authorities which deviate from the legislation will be vulnerable to criticism by my Inspectors.
- 5.4** Statutory instruments relating to enhanced authorisation of surveillance likely to obtain legally protected information have been enacted (SI 2010/123 and SI 2010/461) as the Appellate Committee of the House of Lords recommended in 2009. (see *In re McE, M, C and AP* [2009] UKHL 15)

### *Common causes of error or criticism*

- 5.5** The definition of surveillance excludes interference with property so use of the product of property interference requires authorisation for intrusive or directed surveillance as appropriate.
- 5.6** An authorisation to interfere with property may only be granted when it is necessary for the action specified to be taken on the ground that it is likely to be of substantial value in the prevention and detection of serious crime (s. 93(2)(a) PA97). Law enforcement agencies should not use technology which interferes with property if the offence does not meet the serious crime criteria.
- 5.7** Authorising Officers should not be too ready to accept that authorisation is unnecessary where surveillance is conducted in a public place. The nature of the information obtained and the use to which it is put are determinative.
- 5.8** Greater precision in articulating why the activity is proportionate is still required in many authorisations. A failure to detail other less intrusive means considered suggests that minds are either not applied rigorously or that some tactics are considered routine. Nor should there be over-reliance on the seriousness of the crime as an automatic justification of proportionate covert surveillance. A wise Authorising Officer will ensure that details of his consideration are recorded; he may find them helpful if cross-examined some time later. Similarly, force strategic priorities and cost-effectiveness, of themselves, provide insufficient basis for authorisation.
- 5.9** There are too many occasions when inspections reveal poor tradecraft in managing CHIS. Infrequent physical meetings and reliance on communication by text messages are rarely adequate. There have also been instances where law enforcement officers have pretended to be the CHIS when communicating with his associates online, without properly providing the CHIS with an alibi. It seems to me that this is an unsafe practice.

- 5.10** Some law enforcement agencies remain confused regarding the process by which a CHIS is granted authorisation to participate in crime. I hope that I will have received from ACPO clarification of their stance before this report is published.
- 5.11** CHIS must be recruited to deal with operational/strategic objectives with a reasonable chance that product from the activity will be used. Without a reasonable expectation that CHIS information will be used, the necessity test cannot easily be met.
- 5.12** My inspections have revealed a number of occasions when meetings with a potential CHIS have been conducted over a protracted period without authorisation. In many cases, the information provided has been deemed sufficient to warrant reward. If the value of the information provided by a person warrants reward, in most cases the use and conduct of the individual should be authorised.
- 5.13** I have criticised the use of template applications and authorisations before. They are frequently inaccurate, especially when requesting a wide variety of available tactics without justification. The law requires that an Authorising Officer describe and specify the activity he is authorising. Examination of reviews and cancellations often reveals that less was used than was applied for or granted. Asking for more than can be justified in order to negate the need for review or cancellation is an unacceptable practice. It is fundamental to a proper authorisation process that covert activity has been specifically authorised. It is incompatible with this principle that authorisations should be so loosely framed as to permit activity not anticipated at the time of authorisation.
- 5.14** It is inappropriate to use the urgent oral authorisation process when there is sufficient time for a written authorisation to be completed. It is equally inappropriate, when deciding whether an investigation is impeded, for public authorities to factor in delays caused by internal procedures such as requiring comment from supervisors or gatekeepers before an Authorising Officer sees an application.
- 5.15** Although there is much merit in using personnel who regularly process documentation relating to covert surveillance, such as Covert Authority Bureau staff and gatekeepers, it is unwise for an Authorising Officer to rely on their competence as a substitute for exercising his own judgment. Where an Authorising Officer relies on others, so that he grants authorisations of widely varying standard, this suggests he is not paying attention to his statutory responsibilities.
- 5.16** Cancellations are sometimes conducted poorly. An Authorising Officer should provide specific directions for the disposal or retention of product; ensure that all surveillance equipment has been recovered; ensure that those conducting surveillance have been instructed to cease and assess whether the surveillance achieved the objectives set out in the application.

### *Technical support*

- 5.17** Technology capable of being used covertly is readily available. It is important that public authorities monitor the procurement and use of such equipment to prevent misuse. This is particularly important where partnership budgets are used and equipment is shared between public authorities. In this instance, clear ownership and management processes are necessary.
- 5.18** Specialist feasibility studies should be completed before an Authorising Officer grants such an authorisation. Specialists will be able to advise on the best equipment to use, compliance implications and the potential impact of the admissibility of evidence. Without confirmation that appropriate equipment is available to achieve the investigation objective, he cannot correctly judge proportionality. I will continue to criticise Authorising Officers who grant authorisations before this information is available.

### *The effect of section 80 RIPA and section 30 RIP(S)A*

- 5.19** There is an expectation that covert surveillance is authorised. Section 80 RIPA and section 30 RIP(S)A help a Trial Judge in exercising his discretion regarding the admissibility of evidence and the impact of the way that evidence was obtained on the fairness of a trial. I am concerned that these sections are sometimes cited as justification for a decision not to authorise. It is unwise for a public authority to rely on them as protection from liability if it chooses not to authorise covert surveillance. One of my tasks is to ensure that discretions are not abused. The conduct of only some covert surveillance will ever be examined in Court and those responsible for authorisation are accountable to me for the way that they choose to operate.

### *Local authority use of covert surveillance*

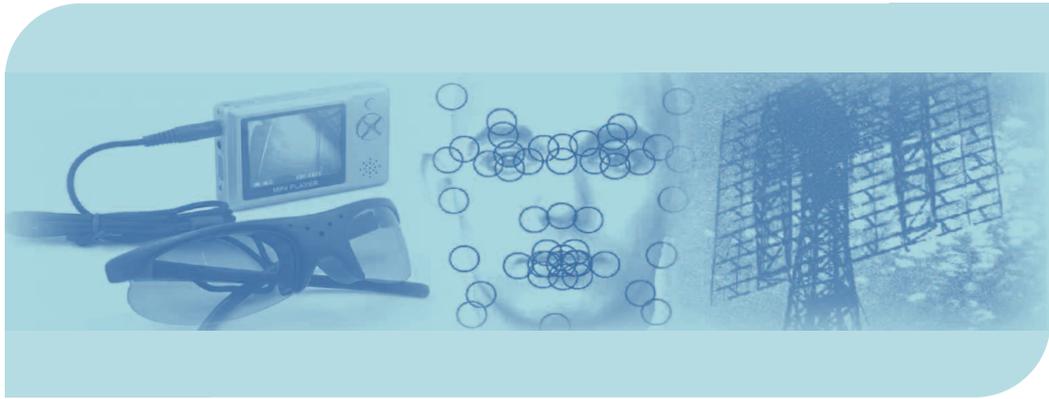
- 5.20** The media have not always been accurate in criticising local authorities and this has resulted in ministers giving directions which do not always reflect the legislation. References to trivial crime and abuse of legislation intended to combat terrorism are misleading. Local authorities have covert powers under s28 of RIPA to prevent or detect crime or prevent disorder. The use of covert powers to prevent dog fouling of a pavement is likely to be disproportionate. But dog fouling in a playground is a different matter bearing in mind the parasite in dog excrement which can cause blindness in children.
- 5.21** The purpose of RIPA and RIP(S)A is to protect the public by requiring public authorities to demonstrate proper management. The absence of an authorisation does not prevent the use of covert surveillance. But the absence of a management regime denies Parliament, through me, the opportunity to assess performance and to regulate how the legislation is used.

## **CCTV**

- 5.22** My Chief Inspector has met the Interim CCTV Regulator and, as a member of the Independent Advisors Group, he will represent me in the development of the National CCTV Strategy.
- 5.23** I am pleased by the proliferation of protocols between local authorities and police forces. In particular, I am satisfied that there is a wider acceptance of the need for authorisations to be shown to those responsible for using cameras covertly. But I am concerned at the number of inspections reporting the ability of some police forces to control, remotely, cameras owned, solely by or in partnership with, a local council. Sometimes control can be taken without the knowledge of the council CCTV Control Room or the guarantee that an appropriate authorisation exists. Equally, there is no guarantee that the person remotely operating the camera is appropriately qualified to conduct such an operation. Protocols should clarify the procedures to be followed when control is taken by others outside the CCTV Control Room and ensure that suitable safeguards are in place to prevent misuse.

## ***Freedom of information***

- 5.24** As indicated in my last report, an internal review of the design of my inspection reports showed no convincing case for changes in their format. The style is consistent for all types of public authority and evidence supports recommendations. I use appropriate Government Security markings to protect the details of covert tactics and investigations and I do not disclose the contents of reports to third parties. It is the responsibility of each public authority, on receipt of a freedom of information request, to decide what should be disclosed.



## 6. The year ahead

- 6.1** I expect reduced concern, in the law enforcement community, with the bureaucracy involved in authorising covert surveillance involving more than one agency. My inspections will monitor the effectiveness and accuracy of collaborative agreements.
- 6.2** I expect the number of joint operating units to increase. Ensuring that these are inspected adequately will be a significant challenge if sub-units are not to be revisited.
- 6.3** I expect improved supervision of the use of covert surveillance by local authorities now that there is a code of practice requirement for a Senior Reporting Officer<sup>1</sup> and reporting to elected members.<sup>2</sup>
- 6.4** I expect adherence to Guidance published by the Commissioners.

<sup>1</sup> See paragraphs 3.28 and 3.29 of the Covert Surveillance and Property Interference revised Code of Practice.

<sup>2</sup> See paragraph 3.30 of the Covert Surveillance and Property Interference revised Code of Practice.

## Appendix A

### AUTHORISATIONS GIVEN UNDER PART III OF THE POLICE ACT 1997 (as amended) DURING THE LAST THREE YEARS

	2007-2008			2008-2009			2009-2010		
	England, Wales & N.I.	Scotland	Total	England, Wales & N.I.	Scotland	Total	England, Wales & N.I.	Scotland	Total
<b>Total number of authorisations</b> (not including renewals)	<b>2,372</b>	<b>121</b>	<b>2,493</b>	<b>2,563</b>	<b>118</b>	<b>2,681</b>	<b>2,542</b>	<b>163</b>	<b>2,705</b>

### PRIOR APPROVALS

	2007-2008			2008-2009			2009-2010		
	England, Wales & N.I.	Scotland	Total	England, Wales & N.I.	Scotland	Total	England, Wales & N.I.	Scotland	Total
Number of cases requiring approval	194	11	205	164	10	174	190	13	203
Cases requiring prior approval by category:									
• Dwelling	133	7	140	117	6	123	118	6	124
• Office premises	37	1	38	28	4	32	45	7	52
• Hotel bedroom	24	3	27	11	0	11	23	0	23
• Matters subject to legal privilege	0	0	0	5	0	5	4	0	4
• Confidential journalistic material	0	0	0	0	0	0	0	0	0
• Confidential personal information	0	0	0	3	0	3	0	0	0

**ANALYSIS BY OFFENCE OF AUTHORISATIONS GIVEN UNDER PART III OF THE POLICE ACT 1997  
(as amended) DURING THE LAST THREE YEARS**

	2007-2008			2008-2009			2009-2010		
	England, Wales & N.I.	Scotland	Total	England, Wales & N.I.	Scotland	Total	England, Wales & N.I.	Scotland	Total
Assault	5	0	5	13	1	14	30	0	30
Burglary/Robbery	59	0	59	160	2	162	156	2	158
Conspiracy	39	0	39	71	4	75	24	3	27
Drug trafficking	1,418	91	1,509	1,603	92	1,695	1,470	131	1,601
Firearms offences (including armed robbery)	131	2	133	118	3	121	182	5	187
Kidnap/extortion	74	3	77	91	3	94	116	4	120
Money laundering	60	0	60	55	0	55	56	1	57
Murder/loss of life	147	15	162	155	5	160	176	10	186
Organised illegal immigration	40	3	43	45	0	45	18	0	18
Tax evasion	59	0	59	35	1	36	39	0	39
Terrorism	118	2	120	16	2	18	14	0	14
Other	222	5	227	201	5	206	261	7	268

## Appendix C

### AUTHORISATIONS GIVEN UNDER PART II OF THE REGULATION OF INVESTIGATORY POWERS ACT 2000 AND THE REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000 DURING THE LAST THREE YEARS

	2007-2008			2008-2009			2009-2010		
	England, Wales & N.I.	Scotland	Total	England, Wales & N.I.	Scotland	Total	England, Wales & N.I.	Scotland	Total
<b>Total number of authorisations</b> (not including renewals)	<b>339</b>	<b>16</b>	<b>355</b>	<b>366</b>	<b>18</b>	<b>384</b>	<b>359</b>	<b>25</b>	<b>384</b>
Cases by category:									
• Private vehicle	179	7	186	201	8	209	169	10	179
• Residential premises	160	9	169	165	10	175	190	15	205

## Appendix D

**ANALYSIS BY OFFENCE OF AUTHORISATIONS GIVEN UNDER PART II OF THE REGULATION OF INVESTIGATORY POWERS ACT 2000 AND UNDER THE REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT DURING THE LAST THREE YEARS**

	2007-2008			2008-2009			2009-2010		
	England, Wales & N.I.	Scotland	Total	England, Wales & N.I.	Scotland	Total	England, Wales & N.I.	Scotland	Total
Assault	6	0	6	4	1	5	14	0	14
Burglary/Robbery	4	0	4	13	1	14	7	0	7
Conspiracy	3	0	3	17	1	18	2	0	2
Drug trafficking	153	11	164	179	8	187	165	15	180
Firearms offences (including armed robbery)	29	1	30	17	0	17	16	2	18
Kidnap/extortion	7	0	7	11	1	12	11	1	12
Money laundering	10	0	10	3	1	4	10	2	12
Murder/loss of life	72	4	76	79	5	84	79	1	80
Organised illegal immigration	5	0	5	6	0	6	1	0	1
Tax evasion	6	0	6	2	0	2	6	0	6
Terrorism	12	0	12	1	0	1	2	0	2
Other	32	0	32	34	0	34	46	4	50

## Appendix E

### Inspection priorities

#### *Subject to annual inspection*

British Transport Police  
 Civil Nuclear Constabulary  
 Department for Work and Pensions  
 Environment Agency  
 HM Prison Service  
 HM Revenue and Customs  
 Northern Ireland Prison Service  
 Office of Fair Trading  
 Police forces for England and Wales  
 Police Service of Northern Ireland  
 Police forces for Scotland  
 Port of Liverpool Police  
 Royal Mail Group plc  
 Royal Military Police  
 Serious Organised Crime Agency  
 Scottish Crime & Drug Enforcement Agency  
 Scottish Prison Service  
 UK Border Agency

#### *Subject to inspection every other year*

British Broadcasting Corporation  
 Care Quality Commission  
 Department for Environment, Food and Rural Affairs  
 Department for Business Innovation and Skills  
 Department for Transport (incl. Driving Standards Agency)  
 Gangmasters Licensing Authority  
 Health and Safety Executive  
 Independent Police Complaints Commission  
 Local Authorities – Unitary, Metropolitan, London Boroughs, Scottish & Welsh Councils  
 Marine Scotland  
 Maritime and Coastguard Agency  
 Ministry of Defence Police & Guarding Agency  
 National Assembly for Wales/Welsh Assembly Government  
 NHS Counter Fraud & Security Management Service  
 NHS Scotland (Counter Fraud Services)  
 Office of the Police Ombudsman for Northern Ireland  
 Royal Navy Police  
 Royal Air Force Police  
 Scottish Accountant in Bankruptcy

## Appendix E

Scottish Environment Protection Agency  
Serious Fraud Office  
Transport Scotland  
Vehicle & Operator Services Agency

### *To be inspected every 3 years*

Charity Commission  
Financial Services Authority  
Food Standards Agency  
Gambling Commission  
General Pharmaceutical Council  
Local Authorities – County & District Councils  
Medicines & Healthcare Products Regulatory Agency  
Office of Communications  
Office of the Information Commissioner  
Office for Standards in Education

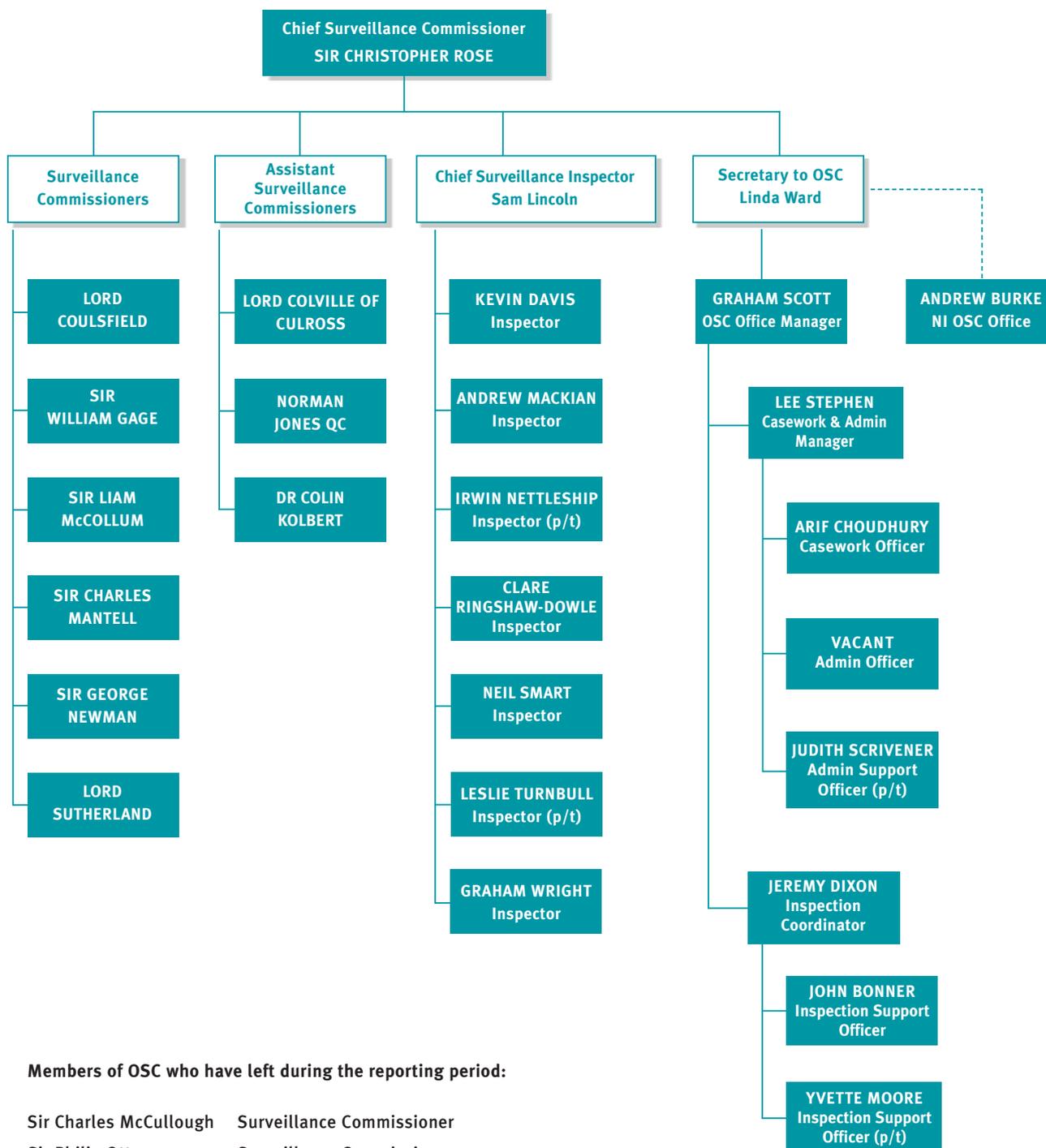
## Appendix F

### OSC expenditure for April 2009-March 2010

Description	Total cost £
Staff costs, including recruitment and training	1,362,872
Travel and subsistence	120,920
Conferences and meetings	4,258
IT and telecommunications	69,134
Stationery, including printing, postage and publications	23,999
Office equipment, including security equipment	4,370
Accommodation, including costs associated with moving	150,212
<b>Total</b>	<b>£1,735,765</b>

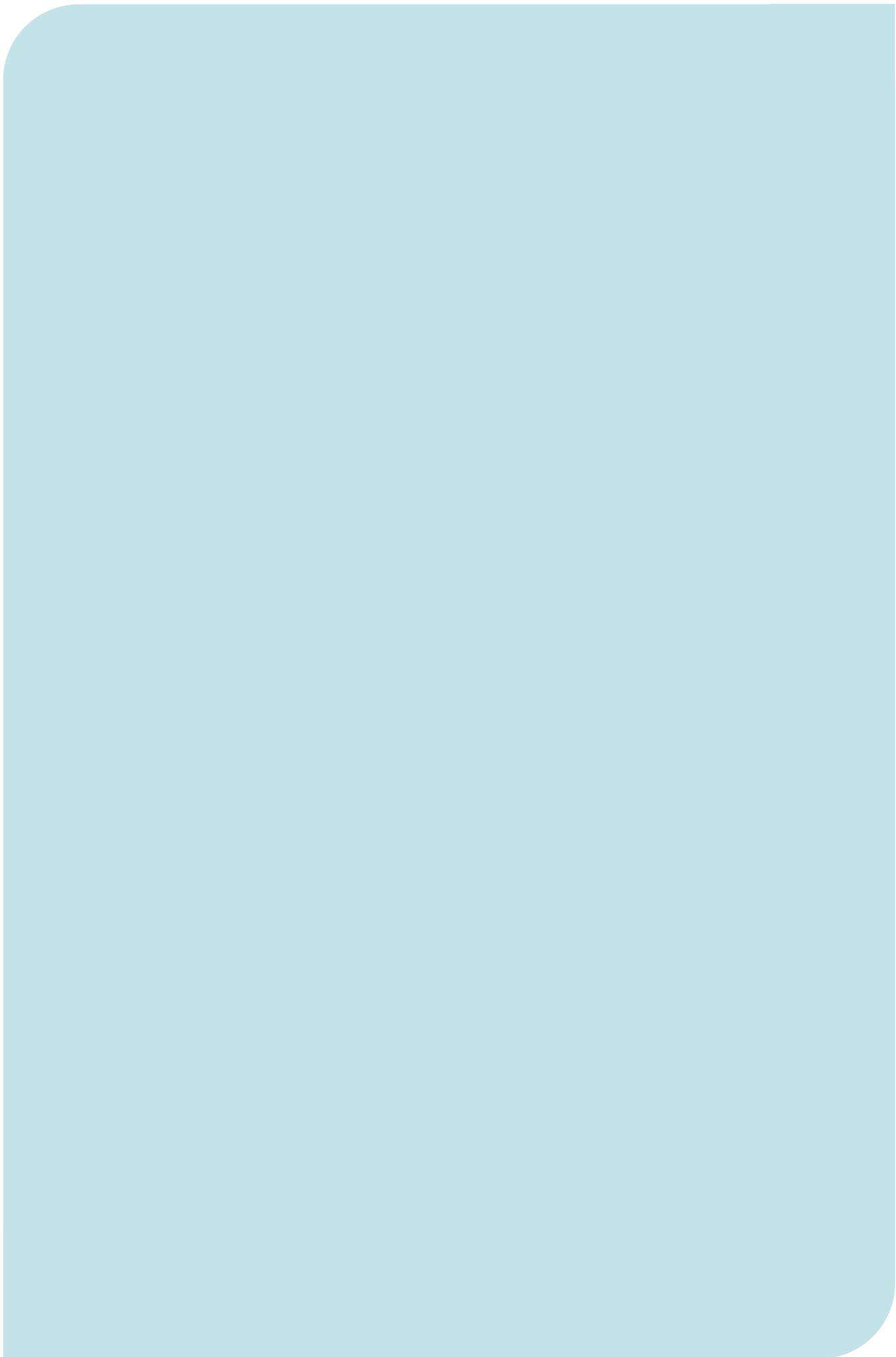
# Appendix G

## MEMBERS OF THE OFFICE OF SURVEILLANCE COMMISSIONERS AS AT 31 MARCH 2010





With thanks to the Technical Operations Group (South), SOCA for supplying photographs  
and to Brightside Print & Design Ltd for assisting with the report design.





Office of Surveillance  
Commissioners

PO Box 29105  
London SW1V 1ZU

Telephone: 020 7035 0074

Facsimile: 020 7035 3114

[www.surveillancecommissioners.gov.uk](http://www.surveillancecommissioners.gov.uk)



[www.tso.co.uk](http://www.tso.co.uk)

Published by TSO (The Stationery Office) and available from:

**Online**

[www.tsoshop.co.uk](http://www.tsoshop.co.uk)

**Mail, Telephone Fax & E-Mail**

TSO

PO Box 29, Norwich NR3 1GN

Telephone orders/General enquiries 0870 600 5522

Order through the Parliamentary Hotline Lo-Call 0845 7 023474

Fax orders: 0870 600 5533

E-mail: [customer.services@tso.co.uk](mailto:customer.services@tso.co.uk)

Textphone: 0870 240 3701

**The Parliamentary Bookshop**

12 Bridge Street, Parliament Square,

London SW1A 2JX

Telephone orders/General enquiries: 020 7219 3890

Fax orders: 020 7219 3866

Email: [bookshop@parliament.uk](mailto:bookshop@parliament.uk)

Internet: <http://www.bookshop.parliament.uk>

**TSO@Blackwell and other Accredited Agents**

**Customers can also order publications from**

TSO Ireland

16 Arthur Street, Belfast BT1 4GD

028 9023 8451 Fax 028 9023 5401

ISBN 978-0-10-296513-1



9 780102 965131