



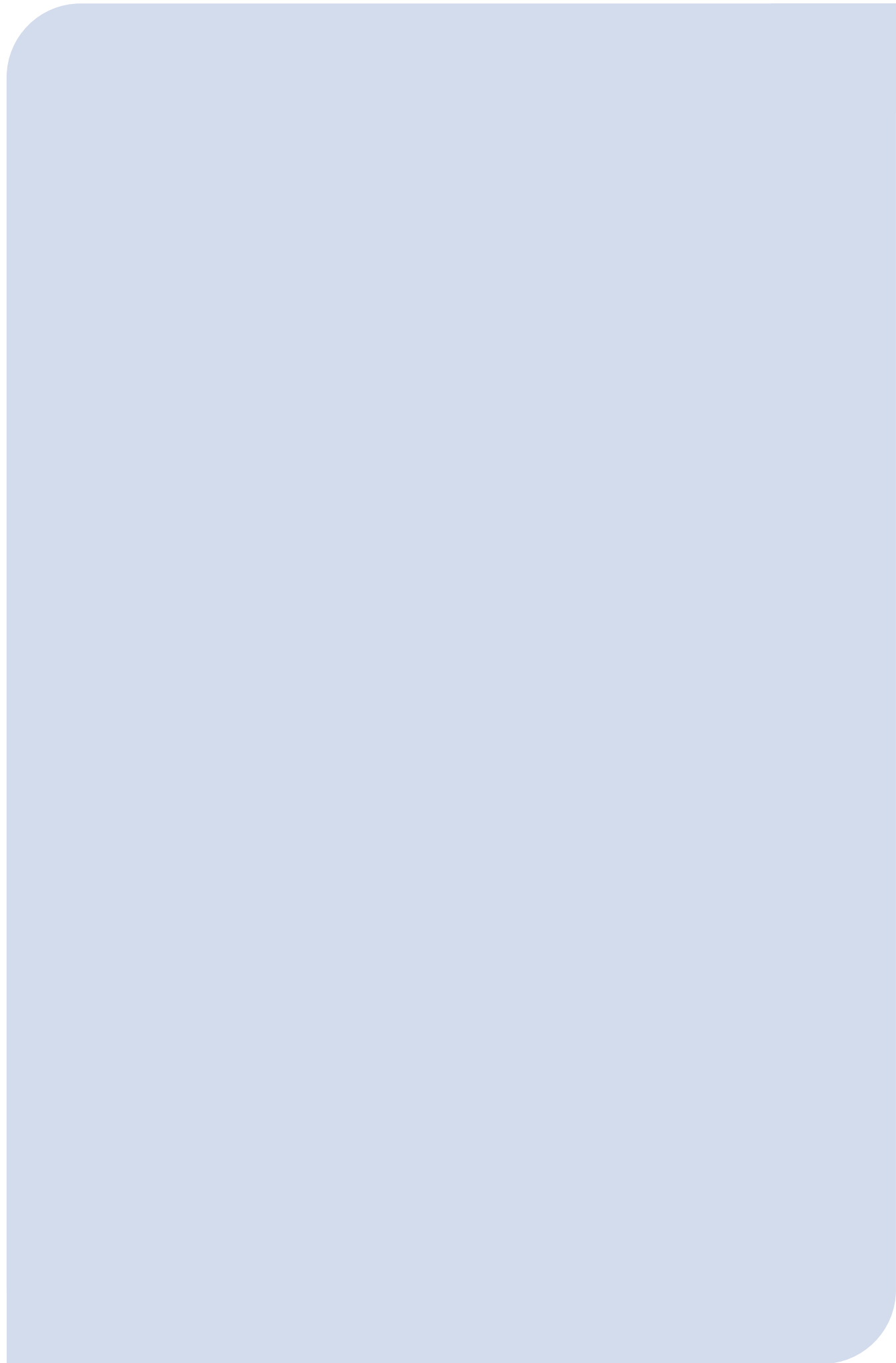
Office of Surveillance
Commissioners

ANNUAL REPORT

of the Chief Surveillance Commissioner
to the Prime Minister and
to Scottish Ministers
for **2004-2005**

HC 444

SE/2005/100



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for **2004-2005**

Chief Commissioner:

The Rt. Hon. Sir Andrew Leggatt

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

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Contents

	<i>Page</i>
1. Introduction	2
2. Overview of the year	2
3. The statutory provisions	4
4. Organisation of OSC business	5
5. Particular matters relating to the OSC	6
6. Property interference and intrusive surveillance	8
7. Directed surveillance and CHIS	9
8. Inspections of law enforcement agencies	11
9. Inspections of Government Departments and related bodies	13
10. Inspections of local authorities	13
11. Inspections of National Health Service	15
12. Inspections of other public bodies	15
13. Priorities	15
14. Technological developments	16
15. The year ahead	17
Annexes	
Annex A Authorisations given under Part III of the Police Act 1997 since implementation	18
Annex B Analysis by offence of authorisations given under Part III of the Police Act 1997	19
Annex C Intrusive surveillance authorisations given under Part II of the Regulation of Investigatory Powers Act 2000 and the Regulation of Investigatory Powers (Scotland) Act 2000 since implementation	20
Annex D Analysis by offence of authorisations given under Part II of RIPA and RIP(S)A	21
Annex E Inspection priorities	22
Annex F OSC Expenditure	24
Annex G Members of the Office of Surveillance Commissioners	25



1. Introduction

- 1.1** This report covers the period from 1st April 2004 to 31st March 2005.
- 1.2** It is my duty to keep under review:
- (a)** the performance of functions under Part III of the Police Act 1997 ('the 1997 Act');
 - (b)** (except in relation to the Interception of Communications and the 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** In practice, this covers all covert activities (except telephone and mail interception) carried out by all public authorities, except the intelligence services. Although Part III of RIPA, relating to encryption, is also within my statutory responsibility, it is still not in force.
- 1.4** It is the duty of the Surveillance Commissioners ('the Commissioners') to appraise all authorisations for property interference and intrusive surveillance either before or immediately after they have been given. There is a right of appeal to the Chief Commissioner against their decisions.
- 1.5** In performance of my duty under all three Acts ('the Acts') to report annually, I continue to prepare a combined report.

2. Overview of the year

- 2.1** Part III of the 1997 Act has been in force for over six years now and Part II of RIPA and the relevant parts of RIP(S)A for almost five years.

- 2.2** The numbers of property interference and intrusive surveillance authorisations (2,210 and 461 respectively) show a slight drop in the number of property interference authorisations notified to me in the previous year (2,483). I continue to be satisfied that these authorisations are given a high level of attention by public authorities. This is only to be expected, because each authorisation is signed by a Chief Officer, and routed through OSC before being approved or scrutinised by a Surveillance Commissioner.
- 2.3** The numbers of authorisations by all public authorities for directed surveillance and Covert Human Intelligence Sources ('CHIS') current at the end of the year (4,713 and 4,505 respectively), show a slight decrease in the use of directed surveillance compared with last year, whilst the use of CHIS remains comparable. In my 2002-2003 report, I stated that the use of these powers continued to cause difficulties. Though matters are improving, the management of directed surveillance is still uneven and there is still a tendency not to recognise as CHIS sources who should be so recognised.
- 2.4** Topics which continue to cause concern to some police forces are those known as repeat and artifice burglaries, crime hotspots and executive authority. 'Repeat burglaries' refers to cases where surveillance is conducted in the homes of vulnerable, often elderly people who have been repeatedly targeted by burglars; 'crime hotspots' refers to cases where in the light of experience police officers maintain special surveillance over all that occurs in particular public places; and 'executive authority' refers to the powers purportedly invoked for disciplinary reasons to conduct surveillance over officers of the public authority concerned. In my Annual Report last year I explained the concerns about those matters.
- 2.5** The Home Office continues to defer the introduction of Part III of RIPA, which provides for the acquisition of the means to access or decrypt protected electronic data. I am assured that the use by terrorist and criminal suspects of information security and encryption is being kept under review and that this Part is likely to be debated soon in connection with the Counter Terrorism Bill. Before Part III is brought into force, there will no doubt be a public consultation on a draft Code of Practice, which will have to be laid before both Houses of Parliament.
- 2.6** During the year, on behalf of the Home Office, the Association of Police Officers ('ACPO') undertook a review of RIPA, the 1997 Act and associated legislation and Codes of Practice. The review team was asked to consider issues of process, governance and bureaucracy and recommend changes to current legislation, guidance and Codes. The final report was submitted to the Home Office in May 2005. I assume that a consultation exercise will then take place, before it is presented to Ministers.



3. The statutory provisions

- 3.1** The purposes and main provisions of Part III of the 1997 Act, Part II of RIPA and RIP(S)A that are relevant to oversight of covert surveillance, together with an account of the statutory functions of the Commissioners, are set out in my Annual Report for 2000-2001 and on the OSC website.
- 3.2** The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2005 No. 1084 came into force on 4th May 2005. Articles 2 and 3 of the Order amend Schedule 1 to RIPA 2000 by adding three new public authorities, namely the Port of Dover Police, Port of Liverpool Police and the Office of Communications.
- 3.3** In addition, I am pleased to note that Article 2 removes Health Authorities established under section 8 of the National Health Service Act 1977 from Part II of Schedule 1 to RIPA, thus relieving them of the statutory power to conduct covert activities.
- 3.4** I continue to have some concern about the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003 No. 3171 which prevented all local authorities (and many other authorities) from carrying out directed surveillance and from using or conducting CHIS, except on the ground that an authorisation is necessary for the purpose of preventing or detecting crime or of preventing disorder. Discussion with public authorities during inspections has suggested that because they are no longer allowed to authorise covert activities in the interests of public safety or for the purpose of protecting public health, some of them can no longer conduct some operations which formerly were usefully and properly within their compass.
- 3.5** Having received the Royal Assent on 7th April 2005, the Commissioners for Revenue and Customs Act 2005 created a non-ministerial government department called HM Revenue and Customs ('HMRC'), which replaced HM Customs and Excise ('HMCE') and the Inland Revenue. A new Directorate of Criminal Investigations is being formed, which will bring together (from HMCE) Law Enforcement Investigation and (from the Inland Revenue) the Special

Compliance Office. At present, former powers of HMCE will not be able to be used for former Revenue purposes, and vice versa. Until new arrangements are made, all authorisations for property interference and intrusive surveillance will therefore be made by former HMCE Officers. I have agreed to defer inspection of the new organisation, in order to allow HMRC staff and management to settle into their new roles.

- 3.6** The Serious Organised Crime and Police Act also came into force on 7th April 2005. It established the Serious Organised Crime Agency ('SOCA'), to replace the National Criminal Intelligence Service ('NCIS'), National Crime Squad ('NCS'), and the remaining parts of HMCE and the Inland Revenue, which tackle drug trafficking and money laundering, and have not been transferred to HMRC. It is planned that SOCA will become operational on 1st April 2006. Until then the new organisation will be set up and run in parallel with the existing agencies. On the assumption that I shall have the same duties of review of SOCA as I have at present in relation to its component parts, I am arranging to meet chief officers of the new Agency to discuss their future relationship with OSC and the new approach to inspection that will be needed.

4. Organisation of OSC business

- 4.1** As I have indicated, the scheme of the Acts is to confer on the Commissioners responsibility for oversight of authorisations, and to confer on me responsibility for keeping under review most of the covert activities conducted by most public authorities. My duty of review is in practice fulfilled by means of inspections of law enforcement agencies by Inspectors, together with follow-up visits by Commissioners or by me, and by inspections of other public authorities by Assistant Commissioners or Inspectors (or both).
- 4.2** In the course of the year all police forces in the United Kingdom have been inspected and visited in this way, as have the NCS, HMCE, NCIS and the Scottish Drugs Enforcement Agency ('SDEA'), and also the Inland Revenue, Department of Works and Pensions and HM Prison Service.
- 4.3** These visits enable Commissioners to establish what progress has been made in the implementation of recommendations made by Inspectors. They also provide an opportunity for discussion of relevant issues that I believe is helpful to Chief Officers as well as to Commissioners.
- 4.4** Following a review of work allocated, the Assistant Commissioners have now assumed responsibility for the inspection of most Government departments and agencies as well as of local authorities. Inspectors continue to inspect law enforcement agencies and local authorities. Some of the more important public authorities (other than law enforcement agencies) are inspected jointly by Assistant Commissioners and Inspectors.

- 4.5** Meetings of the Commissioners, which are also attended by Assistant Commissioners and Inspectors, are usually held three times a year. In the year under review there have been four such meetings. They are valuable because they allow Commissioners to make collective decisions about matters of interpretation. Issues arising from the inspections undertaken by the Assistant Commissioners and Inspectors are also discussed, in the interests of achieving a consistent approach. Guidelines are issued periodically to inform public authorities of the views of the Commissioners on points of interpretation and practice.
- 4.6** Members of the OSC also participate in meetings with other bodies in order to assist public authorities to improve their understanding of the legislation and compliance with it. Inspectors have continued to address many national training events. One inspector is now a regular presenter at the NSLEC authorising officers' course. Assistant Commissioners and Inspectors have also addressed appropriate seminars and conferences.
- 4.7** Four law enforcement consultation group meetings and one local authority consultation group meeting have been arranged by the Secretary to OSC and held during the year. They are constructive meetings, which are attended by regional representatives from the relevant public authorities. Issues of interpretation and practice are passed to the Commissioners for consideration.
- 4.8** The OSC website was initially created in June 2002 in order to promote public awareness and assist local authorities and other public bodies. It was updated in June 2003 and again in April 2004, and now includes copies of my Annual Reports from 2002-2003 onwards. A Welsh version of the website has also been produced. A new section is currently being developed which will list relevant case law associated with Part II of RIPA, RIP(S)A and Part III of the 1997 Act. There have been 13,552 visits to the site during the year, 12,025 of which were made by different visitors. The most popular web pages continue to be the Home page and the Advice and Guidance section, which in June 2004, January and March 2005 received the largest numbers of visitors. Feedback from local authorities and other visitors continues to be appreciative.

5. Particular matters relating to the OSC

Appeals by authorising officers

- 5.1** There was one appeal by an authorising officer during this reporting period. When approving an authorisation for the use of covert listening devices in a cell, a Commissioner imposed a condition that they should not be used until both subjects had been interviewed to finality. I allowed the appeal by substituting the condition "that the listening devices should not be used until both subjects have been interviewed without succeeding in obtaining from them information which it is thought necessary to obtain by use of the devices." As can be seen, it was a very narrow point dependent on the circumstances of the case.

Reporting irregularities

- 5.2** This is the first year in which I have asked Chief Officers to report to me all covert operations in which statutory requirements have not been observed and also any cases which fail in Court on account of defects in covert surveillance. The requirement to notify me ensures that errors and transgressions are brought to my attention as soon as they occur, so that they can, if necessary, be investigated by one of my Inspectors either at once or during the next inspection of the agency concerned.
- 5.3** Most of the breaches of RIPA reported to me are due to the fact that those carrying out the covert procedures have not been told by their managers the terms of the authorisations. This can lead to unlawful property interference and intrusive surveillance, and represents a fundamental failure of management. Law enforcement agencies should also report to me all breaches in relation to CHIS and directed surveillance. But they do not always do so. I shall in future reports comment adversely on unreported breaches found by my Inspectors.

Reporting to the Prime Minister and to the Scottish Ministers

- 5.4** I have had no occasion to report to the Prime Minister during the year on anything relating to any of the matters with which I am concerned. I reported to the Scottish Ministers that one police force had repeatedly authorised a particular activity without realising that it fell within the scope of Part III of the 1997 Act. But none of the authorisations was implemented. So no unauthorised activities actually occurred.

Relationship with other Commissioners

- 5.5** The Interception of Communications Commissioner has recently set up an inspectorate. Its task is to inspect all applications for communications data made by public authorities under Part 1 of RIPA. The creation of another inspection body will undoubtedly increase the burden on those inspected. The OSC and the Interception of Communications Commissioner's Office ('IOCCO') have agreed to ensure that their inspection programmes do not overlap.

Changes in personnel

- 5.6** The OSC is fortunate that its standards will continue to be upheld by the two new Commissioners, Lord Coulsfield and Sir Liam McCollum who have respectively replaced Lord Bonomy (on secondment to the International Criminal Tribunal at the Hague) and Sir John MacDermott (on retirement). To the two who have gone a special debt of gratitude is owed for the vital contribution that each of them made to the establishment and progress of the OSC.
- 5.7** With great sadness I report the death of Tony Williams, my Chief Inspector, who became critically ill at the beginning of the reporting year and died towards the end of it. He helped to plan the OSC Inspectorate, and he rendered it effective.

He was uniquely qualified to do so, having served as a Lieutenant-Colonel in the Intelligence Corps in Northern Ireland, followed by seven years as a member of the Police Complaints Authority. He had independence of mind, good judgement, matchless integrity, and an almost instinctive ability to recognise the reasons for poor performance. Because his criticisms were diplomatic, and his counsel wise, he was much admired, not only by friends and colleagues, but by those whom it was his duty to inspect. The OSC is very grateful to Stephen James, who, following his retirement as a Commander in the Metropolitan Police Service, has agreed to fill the interregnum until a suitable successor is found in course of 2006.

Recognition

- 5.8** A special tribute is in consequence due to the Inspectors, who had to manage for much of the year without a Chief Inspector. This made it necessary for them to take it in turns to stand in for him, as well as adding to the burden of the inspections.
- 5.9** No review of the year would be complete without my public recognition of the parts played, not only by the Inspectors, but also by the Commissioners and Assistant Commissioners in their thorough and conscientious discharge of duties that are often onerous, always helpful and not always appreciated as they deserve to be. For all their activities the staff of the OSC provides indispensable support.



6. Property interference and intrusive surveillance

- 6.1** The powers and duties of the Commissioners in scrutinising, and deciding whether to approve, authorisations under the 1997 Act and under RIPA or RIP(S)A, are explained in my Annual Report for 2000-2001 and they are available from the OSC website.

Statistics

- 6.2** Statistics for property interference and intrusive surveillance authorisations for past years are set out in the tables at Annexes A and B. As before, I have not identified separately the number of authorisations given by each agency since this would give an impression of their operating practices which might be misleading. Offences relating to drug trafficking, murder and terrorism continue to be the major targets of authorisations.

Property interference

- 6.3** Excluding renewals, there were 2,210 property interference authorisations during 2004-2005, showing a slight drop from previous years (2,483 last year). There were 493 renewals of authorisations made during 2004-2005, compared with 522 in the previous year. These figures are to be treated as no more than an indicator of the workload undertaken by the OSC, as some renewals refer to the same operation.
- 6.4** There were 212 cases where urgency provisions allowed for in the legislation were used. There were also three cases where authorisations were properly given in the absence of the Chief Officer. In the previous year these figures were 279 and three respectively. The reduction in the number of urgent cases appears to be largely due to a better understanding by police forces of when the urgency provisions should be used.
- 6.5** Six authorisations were quashed, which is comparable with last year (5). All these cases failed to meet the test of necessity. There were also six cases, in which, because they did not fall within the relevant Act, there was no power to quash or cancel the authorisations: they were merely invalid.

Intrusive surveillance

- 6.6** There were 461 intrusive surveillance authorisations during 2004-2005, which represents a slight rise compared with 447 in the previous year. Renewals of authorisations, however, appear to be constant: 87 renewals were granted this year, compared with 92 in the previous year.
- 6.7** Urgency provisions were used in 30 authorisations none of which had to be signed in the absence of the Chief Officer. This is comparable with last year (30 authorisations of which three had to be signed by someone other than the Chief Officer)

7. Directed surveillance and CHIS

- 7.1** Statistics for the use of directed surveillance and CHIS have been provided by all law enforcement agencies and the majority of other public authorities.

- 7.2** Law enforcement agencies granted some 25,518 directed surveillance authorisations during the period 1 April 2004 to 31 March 2005, with 3,653 still in place at the end of that period. This compares with 26,986 and 4,713 respectively in the previous year.
- 7.3** In relation to other public authorities some 6,110 directed surveillance authorisations were granted during the year, of which 1,060 were still in place at the end of the reporting year. This compares with 6,398 and 1,110 respectively for last year.
- 7.4** There were 4,980 CHIS recruited by law enforcement agencies during the year, but 4,952 were cancelled during the year and 4,452 remained in place at the end of March 2005. The figures for the previous year were 5,907, 5,544 and 4,865 respectively, indicating a significant reduction in the use of such resources. The reasons for this include an increase in longer term operations, a shift towards community-based multi-agency solutions, and an amendment to one of the IT systems used by some law enforcement agencies, in which confidential contacts are no longer counted as CHIS.
- 7.5** For the same period, 308 CHIS were recruited by local authorities, but 204 were cancelled during the year and 53 remained in place at the end of March 2005. This compares to 273, 215 and 134 respectively last year.
- 7.6** Matters relating to directed surveillance and CHIS are examined in detail during inspections of public authorities. They are also discussed when these agencies meet the Secretary and the Chief Surveillance Inspector; and interpretational and other significant problems are presented to the Commissioners for guidance.
- 7.7** This year the OSC has also inspected those law enforcement agencies which, in furtherance of their UK law enforcement efforts, use CHIS overseas. I have sent to those agencies a number of recommendations that seek improvements in the way their covert activities overseas are currently being conducted. When the new Serious and Organised Crime Agency assumes responsibility for such activities, as from April 2006, I shall seek to ensure that the skills, techniques and relationships with foreign regimes reflect the high standards of the United Kingdom. This will be essential when product obtained through covert activity overseas is adduced in domestic courts.



8. Inspections of law enforcement agencies

- 8.1** I use the term ‘law enforcement agencies’ to refer to those bodies which are authorised to use intrusive surveillance. The 68 inspections of law enforcement agencies in the course of the year comprised 44 police forces in England and Wales, eight Scottish forces, the Police Service of Northern Ireland, the National Crime Squad, the National Criminal Intelligence Service, HM Customs and Excise, the Scottish Drug Enforcement Agency, HM Forces in Northern Ireland, the Ministry of Defence Police, the Royal Navy Regulating Branch, the Royal Military Police, the Royal Air Force Police, UK Atomic Energy Authority Constabulary and the British Transport Police.
- 8.2** The Scottish Drug Enforcement Agency is again included because of its close involvement with forces in Scotland. Although it is not yet empowered to authorise intrusive surveillance, I note that a Bill is shortly to be placed before the Scottish Parliament to permit the Director of the SDEA to authorise intrusive and directed surveillance. For some time past I have been advocating the grant of this power.
- 8.3** I have been satisfied with the standards that have been found within all the law enforcement agencies. Although faults still occur, and in some law enforcement agencies there has been slippage from previous higher standards, all are currently applying the legislation to an acceptable standard. I will, of course, keep this position under review, particularly because they are subject to frequent changes of key staff. The loss of even one successful manager, coupled with poor RIPA training and oversight within public authorities, can quickly lead to falling standards.
- 8.4** I continue to be concerned about the lack of economy shown by law enforcement agencies and other public authorities when drafting applications for authorisations. Applicants often repeat the full details of their cases instead of confining themselves to the facts that directly support their applications. That represents a considerable waste of time by investigators and reflects badly on training. It also betokens a lack of effective oversight.

8.5 Assuming that it is brought within the scope of my review, the OSC will also inspect the new Directorate of Criminal Investigations established within the non-ministerial Government Department now known as HMRC, to which I have referred earlier. Since this Directorate brings together the Law Enforcement Investigation from HMCE and the Special Compliance Office from the Inland Revenue, it is a large and significant law enforcement agency.

8.6 I continue to emphasise the point made in previous reports that although I may recommend to chief officers what should be done, it is for them to decide how best to do it, especially when the resources available to them are limited. I do expect, however, to be given an explanation where action has not been taken.

Good and bad practice

8.7 In January 2005, a further detailed list of good and bad practice points noted in the course of inspections of law enforcement agencies has been issued to them. Notable good practices included the development of central authorities bureaux staffed by subject-matter experts, sound training and policies, the good use of gate-keepers to vet authorisations prior to submission to authorising officers, the creation of effective quality assurance, acknowledgment by officers tasked to undertake covert operations that they have seen and understood the terms of the authorisations, consistency about whether authorisations should be sought, and imaginative RIPA websites and newsletters.

8.8 Bad practice points included insufficiently specific applications and authorisations (and in particular, poor quality directed surveillance applications), exceeding the terms of authorisations, codes of practice not readily available to practitioners, and inadequate RIPA training and education.

8.9 The items of good and bad practice listed are culled from reports of inspections of about 60 law enforcement agencies. The OSC Procedures and Guidance booklet is now widely used. It provides a checklist by reference to which the relevant departments of each authority can consider their own practices.

Directed surveillance

8.10 During the year authorisations for directed surveillance have failed to achieve the improvements for which I had hoped, despite the training that has been established by most public authorities. In the coming year I intend to scrutinise closely the ability of public authorities to authorise directed surveillance. These authorisations must be intelligently completed without recourse to cut-and-paste.

9. Inspections of Government Departments and related bodies

9.1 Eighteen inspections have been made of Government Departments and related bodies. These were:

- BBC (TV Licensing)
- Charity Commission
- Department of Work and Pensions
- Fire and Rescue Services (4)
- Gaming Board
- Heath and Safety Executive
- HM Prison Service (England & Wales)
- Home Office – UK Immigration Service
- Inland Revenue
- Northern Ireland Prison Service
- Royal Mail PLC
- Royal Pharmaceutical Society
- Rural Payments Agency
- Scottish Fisheries Protection Agency
- Scottish Executive Environment and Rural Affairs.

9.2 During the year the Assistant Commissioners have assumed responsibility for the inspection of Government Departments and agencies. The more complex continue to be examined jointly by Assistant Commissioners with Inspectors. This approach has brought significant benefits and has been well received by those inspected. I therefore intend to continue with it.

9.3 Some of this heterogeneous group of Government Departments make significant use of directed surveillance and CHIS powers. Most of the improvements mentioned in previous annual reports have been maintained. This is particularly true where they have implemented recommendations made as a result of OSC inspections.

10. Inspections of local authorities

10.1 This year 111 inspections of local authorities were carried out. They are inspected less often than law enforcement agencies for the obvious reasons that they use their powers much less, and that they do not have power to grant authorisations for property interference or intrusive surveillance.

10.2 Out of the 441 local authorities in Great Britain which have been inspected, 63 have now been inspected at least twice. The standard of compliance with the statutory provisions has considerably improved since the Acts came into force.

Inspections over the past year have revealed many examples of local authorities with sound policies; and many have also introduced the necessary training regimes.

- 10.3** Where particular concerns have arisen, special additional inspections are conducted. I have only had to direct three further inspections of local authorities this year.
- 10.4** Local Authorities have continued to be light, albeit regular, users of covert surveillance. Inspections have taken place in accordance with the programme which I have again set out (in Annex E). The authorities comprised the following types:
- 6 County Councils
 - 6 District Councils
 - 27 London Boroughs
 - 21 Metropolitan Councils
 - 29 Unitary Councils
 - 9 Welsh Local Authorities
 - 13 Scottish Local Authorities.
- 10.5** The inspections have revealed a growing understanding of RIPA within these public authorities as well as many examples of good practice. Covert activity is most often used by departments that deal with trading standards and anti-social behaviour and by those which administer benefits. Most local authorities inspected have adopted written policies and protocols that are sound and provide relevant guidance to their staff, but many of them are too wordy, and this gives rise to complaints of “bureaucracy”. The relationship between most local authorities and their police counterparts is harmonious, which from an operational point of view is obviously essential.
- 10.6** Most local authorities still do not use IT to record authorisations or to retain them. But manuscript records may be lost and the duty to retain them thereby compromised. Although it may be expensive to switch to IT, it is often possible to adopt programs already being used by other public authorities.
- 10.7** Local authorities must be alert to the fact that senior managers of departments which only use RIPA sparsely may lack the necessary training to recognise operational requirements. It is a field in which experience often matters more than rank. Much RIPA training now needs to be updated and refined. For example, many public authorities are vulnerable to challenge because the concept of ‘proportionality’ is still not properly understood. The authorisation of CHIS by local authorities is still rare, although some of the larger authorities are beginning to use them.
- 10.8** The Secretary to OSC organises a Local Authorities Consultation Group, much like that established for law enforcement agencies. The group considers matters

of practice and interpretation. I am pleased that it has met again during the year and has agreed to hold bi-annual meetings in future. It is important that the public authorities concerned should make full use of the matters discussed by the group.

11. Inspections of National Health Service

11.1 I continued with my policy of not inspecting any NHS Trusts or Special Health Authorities, and in accordance with my recommendation all Health Authorities established under section 8 of the National Health Service Act 1977 have now been deleted from Part II of Schedule 1 of RIPA. In England and Wales all such activity will now be carried out by the Counter Fraud and Security Management Services ('CFSMS'), who were inspected by the OSC in April 2003 and will be inspected again in 2005.

12. Inspections of other public bodies

12.1 The OSC has continued to inspect the Royal Mail and the Serious Fraud Office ('SFO'). Both bodies continue to have the trained staff necessary to exercise their statutory powers. But whereas the Royal Mail uses the powers itself for effective protection against serious and organised crime, the SFO continues to rely on other law enforcement agencies to exercise the powers on its behalf.

12.2 I am concerned about the recent inclusion of the Fire Services within the RIPA legislation. During the year the OSC inspected four such authorities, and more have been inspected since. It is clear that they are taking their statutory responsibilities seriously and have set up both management and training systems that should cope adequately with RIPA applications and authorisations. But it is obvious that Fire Services themselves are perplexed to know why they should ever need to use covert surveillance. Senior managers consider that fire prevention is best carried out overtly. If a crime were committed or suspected, they would nearly always ask local police officers to investigate it on their behalf. It seems wholly unnecessary that Fire Services should have to incur the expense of maintaining management and training systems that are unlikely to be used. I can see no reason why they should remain subject to RIPA.

13. Inspection priorities

13.1 For the coming inspection year I shall continue to maintain a programme of visits which is based on principles that I have previously set out, and for convenience is repeated in Annex E. Unitary, Metropolitan, London Borough, Scottish and Welsh authorities are to be inspected in every other year, and County and District Councils once in every three years. Notably poor performers

will need more frequent inspection, while those which are consistently good can be inspected less often. Whenever possible, inspections by Assistant Commissioners and by Inspectors will be alternated. In relation to law enforcement agencies I shall try to vary the scope and length of inspections so as to take account of good performance.



14. Technological developments

- 14.1** The use of technical equipment is increasing. That makes it all the more important that its procurement, deployment and use should be properly audited. The ACPO Manual called 'Deployment Standards for Technical Support in Tackling Volume Crime' provides useful guidance. Applicants for surveillance should make clear what technical equipment is needed and should rely, when appropriate, on technical feasibility reports. Authorising officers must consider the suitability of the proposed equipment when assessing proportionality and necessity. The use that is made of technical equipment must not exceed what is authorised.
- 14.2** Where technical equipment is deployed overseas it is important to give early consideration to the legislative requirements of the country concerned, so that any product of the equipment may be admissible in evidence in the United Kingdom.
- 14.3** The internet is difficult to monitor. For example, it is often difficult to establish the precise location of a server, 'web page' or 'chat room' that is the subject of an application or authorisation. Despite technical improvements designed to aid the tracing of servers, difficulties remain.
- 14.4** OSC inspections reveal increased strategic use of CCTV systems by public authorities for enforcement and security purposes. I continue to advise them that such use, including mobile and static cameras, must be supported by accountable and auditable procedures to cover the management and use of the systems. Protocols between local authorities and the police are being

extensively developed for the use of such systems. Directed surveillance authorisations will sometimes be needed. The sophisticated technical capability of some CCTV systems makes it important to ensure that intrusive surveillance does not take place inadvertently.

- 14.5** My Inspectors have not detected any use of ANPR and facial recognition systems that is incompatible with the legislation.

15. The year ahead

- 15.1** In aid of investigations in the United Kingdom law enforcement agencies are conducting more covert activities abroad. Some of them do not comply with our legislation. So those activities must be closely watched.
- 15.2** I look forward to keeping under review the covert activities of SOCA, which I expect to be a more proficient and effective body than the sum of its constituent parts, because they will be interdependent and mutually supportive as well as complementary and unified.
- 15.3** I shall take advantage of such opportunity as is offered to me to comment on the main report and recommendations of the RIPA review, because it is important that in the processes reviewed the role of the OSC should be properly recognised.
- 15.4** In order to compare the performance of public authorities, I have started to introduce a system for assessing them. When it is effective, it will help to gauge the scope and length of ensuing inspections.
- 15.5** The introduction of Part III of RIPA (relating to encryption) is still awaited.

AUTHORISATIONS GIVEN UNDER PART III OF THE POLICE ACT 1997 (AS AMENDED) DURING LAST THREE YEARS

	2002-2003			2003-2004			2004-2005		
	England, Wales & N.I.	Scotland	Total	England, Wales & N.I.	Scotland	Total	England, Wales & N.I.	Scotland	Total
Total number of authorisations (not including renewals)	2,424	87	2,511	2,340	143	2,483	2,072	138	2,210

PRIOR APPROVALS

	2002-2003			2003-2004			2004-2005		
	England, Wales & N.I.	Scotland	Total	England, Wales & N.I.	Scotland	Total	England, Wales & N.I.	Scotland	Total
Number of cases requiring approval*	281	18	299	269	21	290	232	17	249
Cases requiring prior approval by category:									
• Dwelling	190	13	203	174	7	181	162	11	173
• Office premises	38	2	40	29	10	39	33	5	38
• Hotel bedroom	49	3	52	63	4	67	35	1	36
• Matters subject to legal privilege	2	0	2	2	0	2	0	0	0
• Confidential journalistic material	0	0	0	0	0	0	0	0	0
• Confidential personal information	2	0	2	1	0	1	2	0	2

Annex B

ANALYSIS OF AUTHORISATIONS GIVEN UNDER PART III OF THE POLICE ACT 1997 (AS AMENDED) DURING THE LAST THREE YEARS BY OFFENCE

	2002-2003			2003-2004			2004-2005		
	England, Wales & N.I.	Scotland	Total	England, Wales & N.I.	Scotland	Total	England, Wales & N.I.	Scotland	Total
Assault	10	0	10	7	3	10	9	2	11
Burglary/Robbery	96	3	99	110	1	111	96	0	96
Conspiracy	47	0	47	35	0	35	10	0	12
Drug trafficking	1,325	70	1,395	1,275	116	1,391	1,157	105	1,262
Firearms offences (including armed robbery)	131	1	132	116	3	119	108	4	112
Kidnap/extortion	46	0	46	20	1	21	34	0	34
Money laundering	30	0	30	37	0	37	56	5	61
Murder/loss of life	168	3	171	170	2	172	164	8	172
Organised illegal immigration	17	0	17	29	0	29	47	0	47
Tax evasion	130	0	130	116	0	116	48	0	47
Terrorism	169	1	170	171	6	177	212	9	221
Other *	110	5	115	79	10	89	121	5	126

* Only the most common type of offences are listed, including bribery & corruption and sexual offences. As a result, these totals may not reflect the number of authorisations granted.

**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**

	2002-2003			2003-2004			2004-2005		
	England, Wales & N.I.	Scotland	Total	England, Wales & N.I.	Scotland	Total	England, Wales & N.I.	Scotland	Total
Total number of authorisations (not including renewals)	461	14	475	437	10	447	434	27	461
Cases by category:									
• Private vehicle	173	3	176	126	0	126	171	10	181
• Residential premises	288	11	299	311	10	321	263	17	280

Annex D

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

	2002-2003			2003-2004			2004-2005		
	England, Wales & N.I.	Scotland	Total	England, Wales & N.I.	Scotland	Total	England, Wales & N.I.	Scotland	Total
Assault	8	0	8	8	0	8	11	0	11
Burglary/Robbery	13	0	13	15	0	15	13	1	14
Conspiracy	13	0	13	4	0	4	6	0	6
Drug trafficking	175	10	185	162	8	170	156	13	169
Firearms offences (including armed robbery)	39	0	39	18	1	19	17	0	17
Kidnap/extortion	13	0	13	11	0	11	11	0	11
Money laundering	6	0	6	4	0	4	2	0	2
Murder/loss of life	126	2	128	139	1	140	139	8	147
Organised illegal immigration	2	0	2	2	0	2	3	0	3
Tax evasion	12	0	12	3	0	3	3	0	3
Terrorism	25	0	25	22	0	22	15	3	18
Other *	21	1	22	34	0	34	48	2	50

* Only the most common type of offences are listed, including bribery & corruption and sexual offences. As a result, these totals may not reflect the number of authorisations granted.

Inspection priorities

Subject to annual inspection

Police forces for England and Wales
 Serious Organised Crime Agency
 Police forces for Scotland
 Scottish Drugs Enforcement Agency
 Police Service of Northern Ireland
 HM Forces in Northern Ireland
 British Transport Police
 Civil Nuclear Constabulary (formerly UK AEAC)
 HM Revenue and Customs

Department for Work and Pensions [to include Security & Pensions Agency,
 Investigations Liaison Office & Audit Services]
 Environment Agency
 HM Prison Service
 Royal Mail Group PLC
 UK Immigration Service

Subject to inspection every other year

Ministry of Defence Police & Guarding Agency
 Royal Navy Regulating Branch
 Royal Military Police
 Royal Air Force Police

British Broadcasting Corporation
 Department for Environment, Food and Rural Affairs
 NHS Counter Fraud & Security Management Service
 Department of Trade and Industry
 Department for Transport
 Local Authorities – Unitary, Metropolitan, London Boroughs, Scottish & Welsh Councils
 NHS Scotland (National Services Division)

To be inspected in rotation as quickly as first two categories allow

Financial Services Authority
 Health and Safety Executive
 Information Commissioner
 National Assembly for Wales
 Northern Ireland Prison Service
 Office of Communications

Annex E

Office of Fair Trading
Office of the Police Ombudsman for Northern Ireland
Royal Pharmaceutical Society of Great Britain
Rural Payments Agency
Scottish Accountant in Bankruptcy
Scottish Environment Protection Agency
Scottish Executive Environment and Rural Affairs Department
Scottish Prison Service
Serious Fraud Office
Vehicle & Operator Services Agency

To be inspected every 3 years

Charity Commission
Transport Security Division (TRANSEC)
Fire and Rescue Services
Local Authorities – County & District Councils

Inspection priority to be determined once first inspection has been undertaken

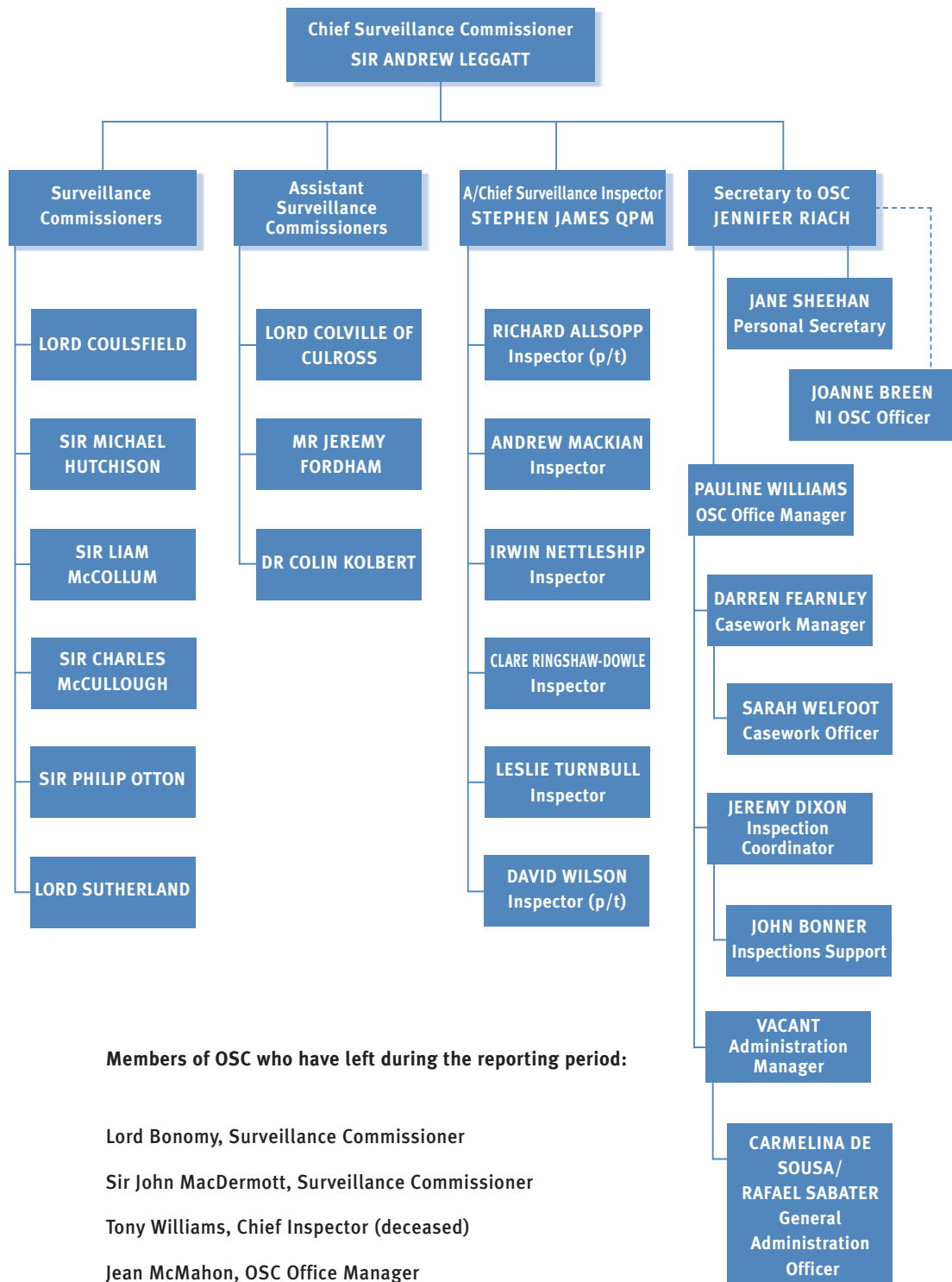
Child Support Agency
Medicines & Healthcare products Regulatory Agency (MHRA)
Food Standards Agency
Gaming Board for Great Britain
Health Boards in Wales
HM Chief Inspector of Schools in England
Port of Dover Police
Port of Liverpool Police

Annex F

OSC expenditure for April 2004 - March 2005

Description	Total cost £
Staff and recruitment costs	1,073,242
Travel and subsistence	92,796
Training and development	4,088
Conferences and meetings	14,130
IT and telecommunications	35,151
Books, stationery & printing	19,120
Office equipment	5,637
Postage and courier costs	1,663
Accommodation costs	40,517
Total	1,286,344

Annex G

MEMBERS OF THE OFFICE OF SURVEILLANCE COMMISSIONERS
AS AT MARCH 2005

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