SIASS / PRACTICAL RESOURCE FOR HOUSING PROFESSIONALS

Covert Surveillance & Investigations in Social Housing

A practical FAQ for housing associations and local authorities

When anti-social behaviour persists, tenancy breaches are suspected or fly-tipping investigations reach an impasse, housing professionals may need to consider additional investigative support.

A guide to professional witness services, surveillance, tenancy investigations, fly-tipping, legal considerations and commissioning independent investigative support.

SIASS
Specialist Intelligence & Security Services

Website: www.siass.org.uk

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A central principle throughout this guide: define the evidential question first. Surveillance is a tool, not an objective.

01. When can a housing association use covert surveillance to investigate ASB?

Covert surveillance may be considered in some cases where there is a clearly defined evidential gap that cannot reasonably be addressed through less intrusive means.

For example, a housing association may need to establish whether a reported pattern of activity is occurring, whether particular individuals regularly attend a property, or whether observable behaviour may amount to a breach of tenancy conditions.

The starting point should not be a general request to conduct surveillance on a resident. It should be a specific question that the investigation needs to answer.

Before commissioning any activity, the housing provider should consider its lawful basis, the purpose of the investigation, the privacy implications, the proposed methods and duration, and whether the activity is necessary and proportionate. Legal advice may be appropriate in complex cases.

02. Can housing associations employ private investigators to investigate tenancy breaches?

Yes. A housing association can consider commissioning an external investigation where it needs specialist assistance to establish relevant facts, subject to the law, its own policies and any applicable contractual or regulatory requirements.

Depending on the circumstances, an investigation might concern suspected unauthorised occupation, possible subletting, repeated nuisance, misuse of a property or other alleged breaches of tenancy conditions.

An independent investigator can gather and document relevant information for the housing provider to assess. The investigator does not determine whether a tenant has breached their tenancy, and the findings should not be treated as proof of wrongdoing without appropriate evaluation.

The scope of work should identify the suspected breach, the facts requiring verification and the decision the evidence is intended to inform.

03. Can a housing association commission surveillance on a tenant?

A housing association may be able to commission lawful observation in appropriate circumstances, but it should not assume that having a legitimate concern automatically justifies surveillance.

The proposed activity must be assessed in its particular context. Important considerations include what needs to be established, what information is already available, whether less intrusive methods would suffice, where observation would take place, how long it would continue and how any personal information would be handled.

Observation in or directed towards a person's home raises particularly significant privacy concerns. Commissioning an external investigator does not remove the housing provider's responsibilities or give the investigator powers that the provider does not possess.

Where the legal position is uncertain, appropriate legal and data protection advice should be obtained before activity begins.

04. What is professional witness surveillance in social housing?

Professional witness services involve an independent professional observing and accurately documenting relevant activity, where lawful and appropriate, and producing an evidential account of what they personally witnessed.

The purpose is to help establish facts that may be relevant to a housing provider's investigation. Depending on the agreed scope, this may involve recording dates, times, relevant observations and the circumstances in which they occurred. Photographic or video material may be appropriate in some cases, subject to legal and privacy considerations.

A professional witness is not a substitute for good case management and does not decide whether someone is guilty of wrongdoing. Nor should their role be to confront an alleged perpetrator or become involved in a dispute.

Professional observation may help corroborate other information, but it cannot guarantee that an allegation will be substantiated or that enforcement action will follow.

05. Who provides lawful surveillance services for housing associations?

Housing providers should look for an established investigation provider that can explain its methods, experience, reporting procedures and approach to legal compliance.

Relevant questions include:

- Does the provider understand the social housing environment and the issues being investigated?
- Can it explain how the proposed work will address a defined evidential question?
- Does it assess necessity, proportionality and privacy before recommending observation?
- How will observations be recorded, reported and preserved?
- How will personal information be stored, shared and retained?
- Can the provider explain the limitations of the proposed work and the circumstances in which it would decline or stop an assignment?

There is no substitute for assessing the suitability of a provider and the proposed work for the individual case.

SIASS provides professional witness, surveillance and investigative services to the social housing sector. We welcome discussions with housing professionals who wish to explore whether independent investigative support may be appropriate for their circumstances.

06. How can local authorities investigate persistent fly-tipping?

Local authorities may investigate fly-tipping by reviewing available evidence, examining the incident location, considering witness information, reviewing relevant CCTV or other existing material, and assessing whether further investigation or enforcement action is justified.

The appropriate approach depends on the circumstances, including the nature and scale of the incident, the available evidence and the authority's powers and responsibilities.

Where repeated incidents occur or the available information does not establish who is responsible, an authority may consider whether specialist investigative support could help address the evidential gap.

Any investigation must comply with the applicable legal requirements. Where covert surveillance is proposed, the authority should consult its relevant legal or regulatory investigation specialists to establish what authorisations and safeguards may be required.

07. Can covert surveillance help identify fly-tipping offenders?

In some circumstances, lawful and proportionate observation may help establish who is responsible for repeated fly-tipping or clarify a pattern of activity.

However, surveillance is not automatically appropriate whenever waste is illegally deposited. Authorities should first assess the evidence already available, including incident records, witness accounts, relevant footage, vehicle or business information where lawfully available, and any other material that may assist the investigation.

If a specific evidential gap remains, the authority can consider whether additional investigative methods are justified and likely to produce useful information.

The investigation should have a defined objective, a proportionate scope and a clear plan for recording and preserving any evidence obtained.

08. What are the legal considerations when commissioning surveillance?

The legal position depends on the organisation commissioning the work, the purpose and methods of the investigation, where the activity takes place and the information being collected.

Relevant considerations may include:

- **Privacy and human rights:** whether the proposed activity unjustifiably interferes with an individual's privacy.
- **Data protection:** whether personal information is processed lawfully, fairly and transparently where required, with appropriate security, access controls and retention arrangements.
- **Investigatory powers:** whether the Regulation of Investigatory Powers Act 2000 (RIPA) or other investigatory requirements apply and whether any required authorisation is in place.
- **Evidence handling:** whether observations and records are accurate, contemporaneous, securely preserved and suitable for their intended evidential purpose.
- **Organisational governance:** whether the commissioning organisation has followed its own policies, delegated authority, procurement requirements and relevant legal advice.

Local authorities have specific legal restrictions and authorisation requirements for certain forms of covert surveillance. Housing associations should not assume that the rules applying to a local authority apply identically to them, or that using a private contractor removes legal responsibilities.

The commissioning organisation should obtain appropriate legal or specialist advice where the proposed activity raises uncertainty.

09. How do we assess whether surveillance is necessary and proportionate?

Begin by defining the question the investigation must answer.

The commissioning professional should be able to explain:

- What specific facts are we trying to establish?
- What evidence do we already have?
- What information is missing?
- Could that information reasonably be obtained by a less intrusive method?
- What are the privacy implications of the proposed activity?
- What methods, duration and scope are justified?
- How will the information be recorded, stored, shared and retained?

- What decision will the evidence inform?

The expected benefit must be weighed against the intrusion, risks and impact on the people affected. The scope should be no wider or longer than justified by the legitimate objective, and the position should be reviewed if circumstances change.

If existing records or other less intrusive methods can answer the question, additional surveillance may not be necessary.

10. Can external investigators support a housing association's internal ASB team?

Yes. External investigators may provide additional capacity or specialist expertise where an internal team needs help with a particularly complex, persistent or resource-intensive case.

The external provider can work to an agreed brief, with clearly defined objectives, responsibilities, reporting arrangements and information-handling requirements.

This does not replace the housing association's responsibility for case management, resident welfare, decision-making or compliance with its own legal obligations.

External investigative support should complement established ASB procedures and appropriate partnership working with police, local authorities and other relevant agencies.

11. How do we commission an independent investigation into suspected tenancy fraud?

A useful first step is to discuss the circumstances with a suitably experienced investigation provider before deciding what activity, if any, is appropriate.

To help scope the assignment, the housing provider should be prepared to explain:

- The suspected tenancy breach or fraud and the facts supporting the concern.
- What has already been investigated and what evidence is available.
- The specific facts that remain to be established.
- The decision the investigation is intended to inform.
- Any known risks, safeguarding considerations or privacy concerns.
- The relevant tenancy conditions, policies and legal advice, where applicable.
- The required reporting arrangements, timescales and information-handling requirements.

The provider can then assess whether it is able to assist, identify suitable methods and explain the proposed scope, limitations and costs.

An independent investigation should be designed to establish relevant facts objectively, not to assume wrongdoing or pursue a predetermined conclusion.

Discuss an investigation with SIASS

Where a housing association or local authority has a persistent or complex case and the available evidence remains inconclusive, independent investigative support may be worth considering.

SIASS provides professional witness, surveillance and investigative services to the social housing sector.

To discuss a particular investigative requirement, contact SIASS for an initial conversation about the circumstances, the evidential question and the options that may be appropriate.

Visit www.siass.org.uk to find out more about our services for housing associations and local authorities.

Important information: This resource provides general information for housing professionals and is not legal advice. The law and applicable authorisation requirements depend on the circumstances of each case. Organisations should obtain appropriate legal and specialist advice before commissioning surveillance where required.