



Barging In:

The rising number of local authority officials able to enter your home or workplace without a warrant

A Big Brother Watch report

December 2009

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Key findings

- There are at least **14,793 officers in local councils** nationwide who can enter private property without requiring a warrant or police officer escort
- That is equal to **47 officers in every local authority** in Britain able to enter homes and workplaces
- **Northamptonshire County Council** and **Glasgow City Council** have the most officers able to enter your home with **almost 500 each**
- Given that 115 local councils either refused to answer our FOI requests, or failed to answer in an acceptable manner, **this figure could be much higher and indeed be as high as 20,000 council officers** in Britain.

Executive Summary

In July 2008 the Home Office published a full list of the 1,043 laws permitting state inspectors to enter people's homes and premises. This was the first time that the full extent of the spread and proliferation of power of entry legislation had been exposed.

Barging In is the first nationwide survey of the number of officers in each Local Authority holding the power to enter a private home or business without requiring a warrant. Through Freedom of Information requests sent to every single local council in Great Britain and Northern Ireland, Big Brother Watch has arrived at a total figure for the number of environmental health technicians, anti-social behaviour officers, safety control inspectors and so on who, on 15th June 2009, if they so wished, could enter your private residence or place of work.

Our research has revealed that there are **at least 14,793 officers in local councils nationwide** who can enter private property without requiring a warrant or police escort. Due to the complexity of the question and the huge number of laws permitting power of entry, 27 per cent of councils were unable to answer the FOI request in full. If the average from those councils who gave a sufficient answer was extrapolated to the full number of councils nationwide, there **could be as many as 20,000 local authority officers in Britain** able to enter your home or place of work.

Many of the laws that permit power of entry are crucial for reasons of public safety and law enforcement. However the steady rise in the number of council officers able to wield these powers points to a wider failing within local authorities. Councils are granting powers of entry to increasing numbers of their officers for administrative ease. Entering private property is a difficult, sensitive and sometimes dangerous exercise. As the numbers rise, the potential for abuse and the lasting damage that a poorly executed operation can do to its victims become of greater concern.

Introduction

A power of entry is a right, established in legislation, to enter private property without the consent of the owner or occupier. In this paper we focus on the powers of entry provided to local councils and their executive agencies which allow officers from these bodies to enter private property without needing a warrant or a police escort.

The appendices show the number of officers in the majority of Britain's local councils who, on Monday 15th June 2009 – 794 years to the day since the Magna Carta was signed by King John – were able to enter your home or business premises without requiring the approval of a court of law and without a police escort.

The power of entry, as provided to local authorities, has been identified by both of the major political parties as a cause for concern. On 25th October 2007, the Prime Minister announced that a review would be carried out on the powers of entry to private property, saying:

“There are a surprisingly high number - at least 250 - of provisions granting power to enter homes and premises without permission. I share the concerns about the need for additional protections for the liberties and rights of the citizen. And I believe that one of the strongest guarantees is a clear understanding of what these rights are and that is more difficult with the very existence of hundreds of laws.”¹

However in July 2008 as part of the review, the Home Office published a full list of the powers of entry that were now in force; there were in fact now 1,043 such powers.²

The Conservatives criticised the legislation, with then Shadow Secretary of State for Communities & Local Government, Eric Pickles MP, saying:

¹ Gordon Brown, *Speech at the University of Westminster*, (Oct 2007), <http://www.number10.gov.uk/Page13630>

² Home Office, <http://police.homeoffice.gov.uk/operational-policing/powers-pace-codes/powers-of-entry-review/>

“We need measures to tackle crime and terrorism, but the abuse of surveillance powers by town halls shows the real danger of function creep by state bureaucrats. Conservatives will cut back these unnecessary powers of the state to enter homes, starting off with abolishing council tax inspectors' rights of entry and reigning back in over-zealous town hall bin police.”³

However, at the time of the release of the Conservative's policy document 'Reversing the Rise of the Surveillance State' there had been no policy proposals from the shadow cabinet to reduce the number of Council officers capable of entering private property.

A note of caution must be added at this stage. Powers of entry are not in and of themselves a bad thing. Many of the laws that permit power of entry to private property without a warrant pertain to the welfare of the public, and their use is often justified given the situation and the need for immediate entry.

There are still problems with powers of entry, however. These fall into three distinct areas:

1. Meaningless regulation

Despite the disclaimer above, several purported reasons for using powers of entry are facile and needless. For instance:

- To see if pot plants have plant pests or do not have a 'plant passport' (Plant Health Order 2005).
- To check the energy ratings on refrigerators (Energy Information Household Refrigerators and Freezers Regulations 2004).
- Surveying the home and garden to see if hedges are too high (Anti-Social Behaviour Act 2003).
- Inspecting a property to ensure illegal or unregulated hypnotism is not taking place (Hypnotism Act 1952).

³ Eric Pickles MP, Conservative Press Release '1,000 ways for Brown's state inspectors to enter your home' (July 2008)

2. Lack of clarity in the legislation

As written about in greater detail in a pamphlet published by the Centre for Policy Studies in 2007, the legislation lacks clarity.⁴ With over 1,000 separate laws permitting the state to enter your home, it has become possible for a local authority officer to treat any number of situations as justifying the use of a power of entry; conversely, it has become increasingly difficult for a member of the public to know their own rights and avenues to redress when such a power is used.

In addition, as the number of laws has ballooned the definition of 'power' and stipulations relating to the appropriate behaviour, particularly involving the 'use of force', when employing powers of entry have become more diffuse. In some cases they have not been updated with the legislation.

3. The number of officers granted power of entry

The principal subject of this paper is the manner in which the number of laws granting powers of entry to local authorities has increased, thereby increasing the number of officers in local authorities capable of entering private premises without requiring either a police escort or a warrant. These officers are often untraceable on the council's website and may be unvetted and poorly trained for the task of entering private property.

Last year Jenny Paton, a young mother in Poole, was investigated using the Regulation of Investigatory Powers Act (RIPA) for trying to send her child to a popular school in her catchment area;⁵ and in November, Croydon Council employed the authority's full surveillance capabilities to catch the person responsible for pruning a tree in the borough.⁶

⁴ Harry Snook, *Crossing the Threshold: 266 ways the State can enter your home*, Centre for Policy Studies, (April 2007)

<http://www.cps.org.uk/historiccatalogue/?pageno=3&producttypeid=1&categoryid=0&authorid=0>

⁵ *Family's shock at Council spying* (BBC News, 11th April 2008) <http://news.bbc.co.uk/1/hi/england/dorset/7343445.stm>

⁶ *Council uses anti-terror laws to find out who pruned tree* (Croydon Advertiser, 3rd November 2009)

<http://www.thiscroydontoday.co.uk/latestnews/Council-uses-anti-terror-laws-pruned-tree/article-1466974->

Such examples demonstrate that council officials are prone to misusing well-meaning legislation. Big Brother Watch contends that the increase in the number of people able to enter private property, without the checks and balances provided by the necessity of a court warrant, makes the chances of abuse more likely and threatens the privacy of our homes and workplaces.

The announcement of reviews and the condemnations of our political leaders show willingness in the political class to address the issue of unwarranted powers of entry. But it is hoped that with this research - the first time a total figure has been produced for the number of council officers nationwide able to enter private premises - and the weight of public opinion in opposition to this allowance, will return the issue to the forefront political agenda and see a renewed commitment from the major parties to tackle the problem.

Resisting transparency and disclosure

All information was gathered through Freedom of Information requests and while some of the local authorities provided complete responses, several councils refused to disclose the information requested on the grounds that doing so would exceed the maximum staff time allowed to be expended in complying with the FOI Act of 18 hours or a cost of £450.00. The standard logic behind denying our request on these grounds was that the council did not keep a centralised database of each officer's job description and it would therefore require the FOI team examine the descriptions of each relevant post holder for their access to powers of entry. There are, as we see it, two problems with this argument.

The first is that this excuse would have made sense had it been the answer given by the largest councils with high numbers of staff. However, as an example, Birmingham City Council – the most populous local authority (excluding the counties) in the United Kingdom representing over one million people – provided an answer; whereas Ipswich Borough Council – boasting a population of just over 125,000 people – declined the FOI request saying that “the cost of complying with (the) request would exceed the appropriate limit of £450”. We experienced particular difficulty obtaining information from the London Borough Councils.

The second problem is a more fundamental one – namely that if certain officers are required to enter private property without a warrant, local authorities ought to be aware who is authorised and who isn't without spending more than 18 hours locating the information. Indeed, Big Brother Watch believes that the number of denials for our, relatively simple, FOI request indicates the dire state of the management and administration of the use of powers of entry in local government. As a consequence of this, we cannot claim our total figure of officers able to enter private property without a warrant on the 15th June 2009 as a complete total for the United Kingdom.

Methodology

Freedom of Information requests were used to obtain these figures. Every local authority in Britain was sent a request asking for the total number of people within their council and its executive agencies who were granted the right to use powers of entry legislation to enter a private property, or were able to confer that right upon another agency, on Monday 15th June 2009. The full text of the Freedom of Information request submitted is included in Appendix 3.

To aid the FOI officers in their task of collating this information, Big Brother Watch slimmed down the 1,043 state powers of entry in primary and secondary legislation to 418 laws covering only local authority officers and allowing them to enter private property without a warrant and without a police escort, and attached this revised list of legislation to the original FOI request. The 418 pieces of primary and secondary legislation attached to the FOI are included in Appendix 4.

The list covers only council officers and officers of their executive agencies delegated these powers by their council's constitution; **it does not include the numbers of police officers, firemen and paramedics employed by local authorities**, as with all three professions the necessity of being able to use powers of entry is one of paramount importance, for which provision is made in other legislation.

Of the 431 councils in the UK, 316 (73 per cent) provided usable information. 111 councils either refused to disclose any information or did not disclose adequate information to be included in this report. 4 councils did not respond to our request at all, despite having over 40 working days to do so – well over the statutory limit of 20 – and repeated reminders.

We challenged every response that did not fully answer our request. However due to delays incurred in this process, some responses were not received until after our cut-

off date for receipt of data; some information eventually sent by councils, is therefore not included in this report.

The failure of these councils to disclose information in a timely manner, and the outright refusal of others, means that the league table is unfortunately prejudiced against those councils prepared to answer our FOI request and the final figure is likely to *underestimate* the total number of council officers able to enter private premises without a warrant on 15th June 2009.

About Big Brother Watch

Big Brother Watch was set up to challenge policies that threaten our privacy, our freedoms and our civil liberties, and to expose the true scale of the surveillance state.

Founded in 2009, we have produced unique research exposing the erosion of civil liberties in the UK, looking at the dramatic expansion of surveillance powers, the growth of the database state and the misuse of personal information.

We campaign to give individuals more control over their personal data, and hold to account those who fail to respect our privacy, whether private companies, government departments or local authorities.

Protecting individual privacy and defending civil liberties, Big Brother Watch is a campaign group for the digital age.

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