

IN THE INVESTIGATORY POWERS TRIBUNAL

(Lord Justice John Mummery, Sir Richard Gaskell and Robert Seabrook QC)

DETERMINATION OF APPLICATION No IPT/06/31/CH

Mr Gibbon complained of unauthorised surveillance by Rugby Borough Council (Rugby) by way of T1 (Human Rights Claim) and T2 (Complaint) forms.

The Tribunal found that Rugby had on 6 March 2006 carried out unauthorised intrusive surveillance on the applicant's home property. This was part of Rugby Borough Council's planning investigation into the alleged use by the applicant of his home for business purposes, which covered several months, which had earlier included some authorised directed surveillance.

Rugby Borough Council failed to provide any satisfactory reason for this unauthorised surveillance. At first Rugby Borough Council admitted that one of the two men walked onto the shared driveway in the course of directed surveillance and, when asked to explain this, they said one of the men had left the country and could not be contacted. They made no reference to the other man at all. Rugby Borough Council also asserted that the surveillance was "not carried out in relation to anything taking place on residential premises" and ignored the Tribunal request to explain that assertion. The Tribunal had no hesitation in concluding that this was unauthorised surveillance.

The Tribunal invited both parties to address the question of remedies. The applicant saw this as an opportunity to redress the financial burdens of his long-running planning dispute with Rugby Borough Council and sought, as his only remedy, financial redress quantified at £680,000. He has not sought an apology as he considers that would be meaningless and insincere. Rugby Borough Council have relied, presumably in mitigation of the sum awarded, on having a valid planning Enforcement Notice since July 2006 prohibiting the operation of a chiropractic surgery at the applicant's home. Further they say that Rugby Borough Council did not rely on the evidence of the investigator, who was one of the two carrying out unauthorised surveillance, in court. Rugby Borough Council said it would be willing to "undertake to destroy these records if required."

The Tribunal has directed that:

- (i) it makes a determination in the applicant's favour in respect of his complaint against Rugby Borough Council,
- (ii) it makes no finding in respect of the Human Rights claim as Rugby Borough Council, being a local authority, is not a public authority over whom the Tribunal has jurisdiction,
- (iii) the applicant should be awarded compensation of £2,500, and
- (iv) there should not be an order for the destruction of records as it would appear that there is ground, the fertility of which may be doubtful, for litigation between the parties.

Lord Justice John Mummery
Sir Richard Gaskell
Robert Seabrook QC

14 August 2008