

SIA Enforcement Policy
Code of Practice
June 2008



Security Industry Authority

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The Security Industry Authority is the organisation responsible for regulating the private security industry. It is an independent body reporting to the Home Secretary, established in 2003 under the terms of the Private Security Industry Act 2001. Its mission is to help protect society by collaboratively developing and achieving high standards within the private security industry. Its remit currently covers England, Wales and Scotland.

This Enforcement Policy Code of Practice is produced in accordance with section 20 of the Private Security Industry Act. The SIA aims to raise standards of professionalism and skills within the private security industry and promote and spread best practice. Part of its responsibility is to ensure that regulation is being complied with, so the SIA is provided with enforcement capability under the Act. The SIA believes that appropriate use of enforcement powers is important, both to secure compliance with the law, and to ensure that those who have responsibilities under it are held to account for failures to comply with the details of the legislation. We are committed to the Regulators' Compliance Code, a statutory code of practice for regulators that promotes a risk-based, proportionate and targeted approach.

There are a range of compliance tools at the disposal of the SIA which assist in securing compliance with the law and allow a proportionate response to offences. SIA investigators (references to 'SIA investigators' relate only to investigators deployed directly by the SIA) may issue verbal or written warnings where companies, organisations or individuals are found failing to comply with the law. SIA investigators can issue companies with improvement notices which state what improvements are required and offer a manageable timeframe in which to rectify matters. The SIA has the option to initiate prosecutions for breaches of legislation; however compliance in the first instance will always be the preferred option.

The Private Security Industry Act 2001 created several offences concerned with engaging in designated licensable activities without the correct SIA licence and deploying an unlicensed person to carry out licensable activities. Should a case against an individual believed to be in breach of the Act be prosecuted as a summary conviction at a Magistrate's Court, Sheriff Court or District Court, there is a maximum penalty of six months imprisonment and/or a fine of up to £5,000, or (for supplying unlicensed staff only) for a trial on indictment at Crown Court, High Court of Justiciary or Sheriff and jury trial, the penalty is an unlimited fine and/or up to five years imprisonment.

Why this Code of Practice is issued

This Enforcement Policy explains what can be expected from SIA investigators and those with written authority making enquiries. It is important to remember that the SIA aims to encourage full compliance and co-operation in the first instance and will do all it can to assist in helping organisations meet their obligations. This Code is binding on the activities of SIA investigators and those with written authority who carry out investigations under section 19 of the Private Security Industry Act 2001. If the requirements of this Code are not met, grounds for complaint may arise; see paragraphs 26-29 for details of how to complain. This Code of Practice is available to download from the SIA website; www.the-sia.org.uk.

I. This Code of Practice explains the powers of SIA investigators and those with written authority, the extent of those powers, and the responsibilities and rights of those from whom the SIA may seek information, as defined in legislation.¹ SIA investigators and those with written authority should undertake enquiries in accordance with this Code of Practice.

¹ References to 'those with written authority' relate to individuals with written authority from the SIA under section 19 of the Private Security Industry Act 2001, allowing them to inspect SIA licences.

2. SIA investigators and those with written authority should always inform people of the existence of this Code of Practice when formally invoking powers under sections 19 (1) or (2) of the Private Security Industry Act 2001 to require entry to premises or request information.

3. This code explains the powers of the SIA and provides the basis for how SIA investigators and those with written authority should conduct their enquiries.

Powers of Entry and Information Gathering

4. Under section 19 (1) of the Private Security Industry Act 2001, SIA investigators may enter any premises owned or occupied by a person appearing to be a regulated person under section 19 (8) of the Private Security Industry Act 2001 other than premises exclusively used for residential purposes.

5. When exercising powers, under section 19 of the Private Security Industry Act 2001, to enter premises or request information in person, SIA investigators and those with written authority will;

- state who they are and show their authorisation and evidence of their identity,
- state that they are using their powers of entry and/or making a formal request for information under the powers conferred by the Act,
- state the purpose for which the power is being exercised, and
- make a record of the date and time of entry and the duration of the visit and conduct whilst there.

This information will be recorded and a copy of this record will be made available on request. Any person present at the time of a visit where these powers to gain entry have been exercised, may request the above information and/or a copy of the record.

6. When exercising powers, under sections 19 (1) or (2) of the Private Security Industry Act 2001, to request information by letter, an SIA investigator or those with written authority will;

- state in the letter that they are using their powers for making formal request for information under the powers conferred by the Act, and
- state the purpose for which the power is being exercised.

7. In most cases SIA investigators or those with written authority will give advance notice of any intention to visit. On occasion, this may not be appropriate so visits can be made without prior notification. The power of entry conferred by Section 19(1) of the Private Security Industry Act 2001 shall only be exercised at a reasonable hour.

8. SIA investigators or those with written authority are required to act reasonably and fairly in seeking information from individuals and organisations that hold details necessary to SIA enquiries.

9. SIA investigators or those with written authority will only enter premises and remain, with consent from the owner, the occupier, or their representative. They will never try to force an entry. If, after entry has been granted, an SIA investigator or those with written authority are asked to leave before they have completed their enquiries, they will do so. However, where SIA investigators or those with written authority consider that such action has been taken to obstruct their enquiries or to conceal evidence, they may consider further enforcement action.

10. Under section 19 (5) of the Private Security Industry Act 2001, it is an offence to intentionally obstruct entry or to fail to comply with requests for information by SIA investigators, or those with written authority in the exercise of their powers under this Act.

11. SIA investigators are entitled to seek information by questioning any person appearing to be a regulated person under section 19(8) of the Private Security Industry Act 2001, however they do not have the power to detain people.

12. If absolutely necessary SIA investigators may remove original documentation from the premises visited. SIA investigators will explain why this is necessary. Any original documents that are removed will be returned as soon as possible. A receipt will be given for any documents that need to be removed temporarily.

13. Documents will not be seized and removed by force. When a request by an SIA investigator or those with written authority is made, whether in writing or in person, there is a statutory duty under section 19(2) of the Private Security Industry Act 2001 to provide that information, including any documentation that is requested.

14. The Data Protection Act 1998 will not be contravened by providing information requested by SIA investigators or those with written authority. Under section 35(1) of the Data Protection Act 1998 exemption from the non disclosure provisions exists where a statutory provision applies, such as Section 19 of the Private Security Industry Act 2001 which requires the supply of information.

15. If a recipient of an SIA request for information has difficulty meeting any part of the requirement for information, they may contact the SIA investigator or the individual with written authority to explain why, and make alternative arrangements for the provision of the information.

16. Failure to fully meet SIA requests for information could result in criminal proceedings being instigated. The maximum penalty is a fine, fixed at level 5, (currently £5,000), and/or a term of imprisonment not exceeding six months.

At the end of SIA enquiries

19. Notification of any further action will be made as soon as possible once an enquiry has been concluded or SIA investigators have made an enquiry or obtained information.

20. When issuing an improvement notice SIA investigators will give clear and simple advice, explaining what action is required and in what timescale. They will also distinguish between what must be done to comply with the law and what is recommended as best practice.

21. SIA investigators will provide details of contact points for further dealings and enquiries.

22. Should advice given by the SIA be disputed, SIA investigators will advise the procedure for making a complaint.

Equal Opportunities

23. The SIA is committed to the principles of fairness and non-discrimination. It aims to treat individuals with dignity and respect and provide services free from unlawful discrimination, harassment or victimisation. In particular it aims not to discriminate on gender, race and ethnic origin, disability, sexual orientation, faith or age.

24. The National Intelligence Model is used by the SIA to produce assessments, to prioritise and inform targeted compliance activity and identify potential criminality. The model and incorporated processes is designed to create a consistent and objective analysis of priorities, excluding discrimination of any variety.

25. The SIA monitors the ethnicity of individuals issued with SIA warnings. Where there is evidence that certain ethnic groups are being issued a disproportionate number of warnings, the SIA will identify the cause of this and will take measures to redress the matter where these are within its control or influence.

Complaints

26. Complaints about how SIA investigators or those with written authority have employed their powers or about the reasonableness of their actions, including any matter relating to alleged discrimination, can be made to:

The Security Industry Authority
PO Box 1293
Liverpool
L69 1AX

Telephone: 0844 892 1025
Fax: 0844 892 0975
Email: info@the-sia.org.uk

Correspondence will be acknowledged within one working day and the SIA will endeavour to respond to all queries and complaints within ten working days of receipt.

If the complaint is complicated it may take longer than ten working days for us to get back to you. If this happens, we will let you know and keep you informed of progress.

27. Should the matter not be resolved in the first instance, you can ask for your complaint to be reviewed by the SIA Chief Executive.

28. Independent legal advice can be sought at any time. The Citizens Advice Bureau (see the telephone book for details of your local bureau) will be able to help decide who to contact.

Complaints to the Ombudsman

29. Complaints relating to enquiries made by SIA investigators may be made to the independent Parliamentary Commissioner for Administration, commonly known as the 'Ombudsman'. The Ombudsman deals with complaints from members of the public who feel they have suffered injustices because of maladministration by a public body. The Ombudsman will decide whether a complaint is fully or partly justified and can recommend what remedial action the organisation should take. If you want to complain to the Ombudsman you must first tell a Member of Parliament about your complaint and ask him or her to refer it to the Ombudsman. Most people get in touch with their local constituency MP. Your local library or Citizens Advice Bureau can give you your MP's name. You can also search for their name online by going to www.parliament.uk.

Disclaimer

The SIA reserves the right to revise this Code of Practice from time to time as procedures are developed and refined. An up to date Code of Practice will always be available on the SIA website (www.the-sia.org.uk). Please note that this Code of Practice gives general guidance only and should not be regarded as a complete and authoritative statement of the law. If any of the contents of this Code of Practice are not understood, independent advice can be sought.

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