

The Rt Hon. Lord Judge

Office of Surveillance
Commissioners

FILE COPY

Chief
Surveillance
Commissioner

Official -Sensitive

17 January 2017

Dear *Chief Executive,*

I enclose a copy of the report dated 15 December 2016 prepared by His Honour Brian Barker CBE., QC., following his inspection of the arrangements made by the Council to secure compliance with the statutory provisions which govern the use of covert surveillance.

I have studied the report and endorse it.

Dealing with it generally this is a positive report. The recommendations made following the last inspection in October 2013 have been addressed. Mr Henley, operating in his new role, has introduced a sensible level of cohesion to RIPA issues, and with the oversight of Mr Lawson, my strong impression is that the team vested with these responsibilities is working well. One practical consequence is that there is no undue reticence to exercise the legislative powers as and when appropriate.

There are two specific recommendations this year. The first relates to the Policy document which requires some updating, particularly in the context of the use of the social media sites and the Internet. This is an area of potential vulnerability. Officials, particularly those with responsibilities for vulnerable adults and children, acting in good faith, may inadvertently stray into activity amounting to covert surveillance for the purposes of the legislation without appreciating that they are doing so. If so, notwithstanding their good faith in this important aspect of their responsibilities, they, as well as the Council itself, would be acting unlawfully. Both the Policy document and the training arrangements must address this risk. The vulnerability will be ongoing, perhaps heightened as time goes by, as the technology continues to develop while the statutory provisions do not.

The other recommendation relates to update training for newly appointed Authorising Officers, but this will surely be dealt with as a matter of course in the training arrangements. All in all, I repeat that this is a positive report reflecting credit on the officials vested with the statutory responsibilities.

Yours sincerely,



Lynn Carpenter
Chief Executive
Thurrock Borough Council
Civic Offices
New Road
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Essex RM17 6SL

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Office of Surveillance
Commissioners

OFFICE OF SURVEILLANCE COMMISSIONERS

INSPECTION REPORT

Thurrock Borough Council

16th November 2016

**Assistant Surveillance Commissioner:
His Honour Brian Barker CBE, QC**

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Office of Surveillance
Commissioners

The Rt. Hon the Lord Judge
Chief Surveillance Commissioner,
Office of Surveillance Commissioners,
PO Box 29105
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December 15th, 2016.

**INSPECTION REPORT
THURROCK BOROUGH COUNCIL**

Inspection November 16th, 2016.

Inspector His Honour Brian Barker CBE, Q.C.
Assistant Commissioner.

Introduction:

1. Thurrock Borough Council is a unitary authority serving a population of about 163,000 and has now the equivalent of nearly 1,400 fulltime posts. It is responsible for an area of about sixty-three square miles, half of which is defined as green belt. It is part of London's commuter belt. It is also an area of regeneration, and is strategically placed on the M25 and A13 corridors. On its 18 miles of riverfront are three international ports: London Gateway, the Port of Tilbury and the Port of Purfleet.
2. The council is organized on a cabinet basis with a leader and 49 councillors. It elects a Mayor annually as first citizen.
3. The Chief Executive, Lyn Carpenter, has been in post since 2015 and is supported by a Director's Board. This consists of seven Directors: for Adults, Housing and Health; Children's Services; Environment and Place; Finance and IT; Human Recourses; Legal Services; and Strategy, Communications and Customer Services.
4. The last inspection was carried out by His Honour Norman Jones Q.C., Assistant Surveillance Commissioner, on October 8th 2013; and he noted seven authorisations since the previous inspection and remarked on the high standard of the RIPA management structure and training programme.
5. Like all authorities there has been considerable pressure to reduce costs, and there has to be a saving of £10m over the next financial year. Legal services are shared with the London Borough of Barking and Dagenham and Brentwood Borough Council; and there are active efforts to become involved with other shared services.

6. The address is: Civic Offices, New Road, Grays, Essex, RM17 6SL.

Past Recommendations:

7. *i:* to address issues as to quality of authorisations and management of *CHIS* by training from an external professional
- ii:* to adopt a system of robust quality control to timeously identify and rectify below standard authorisations
- iii:* reduce the number of nominated Authorising Officers
- iv:* amend the *RIPA* Corporate Policy

Inspection:

7. I was warmly welcomed by Lee Henley, the Information Manager with HR, OD and Transformation responsibilities, who was additionally appointed *RIPA Co-ordination Officer* in 2014. He has clearly gone to considerable trouble to master his new brief, and has introduced a number of innovations.
8. We embarked on a wide ranging discussion, and in the course of the Inspection I also had useful conversations with:
 - Lyn Carpenter: Chief Executive
 - David Lawson: Deputy Head of Legal, Monitoring officer and SRO
 - Sean Clarke: Director Finance and IT and Authorising Officer
 - David Kleinberg: Head of Counter Fraud and Investigation Directorate.
9. It was apparent that Mr. Henley had brought fresh eyes and enthusiasm to his role. Since taking over he had made it clear throughout the authority and on the intranet that he was to be the single point of contact which would give him proper oversight and scrutiny. While council policy was to use covert surveillance only as a last resort, there had been a limited but steady stream of applications since the last inspection in necessary cases.
10. Topics covered included the understanding of both the usefulness of the tool as an 'insurance policy,' and of the practical aspects of *RIPA* implementation. Also discussed were the factors leading to a somewhat declining use, which included the increasing availability of effective overt methods of information gathering as well as the raising of the sentencing threshold, and pressure on resources.

11. Other subjects included the changing methods used by Trading Standards to maintain safeguards including 'trusted trader schemes,' 'no cold calling' zones and the 'challenge 25' system for those serving younger looking customers.
12. We moved on to discuss the potential problems that could arise from the use of personal and social media sites to further investigations and follow up complaints, and the need for officers to be alert to the necessity of following *RIPA* procedures if crossing the line. This topic had been part of recent training sessions received by the Trading Standards officers.
13. A successful and impressive innovation brought to my attention in both law enforcing and financial terms was the Counter Fraud and Investigation Team run by David Kleinberg. His team also operate on behalf of Southend Borough Council (where I had previously met him when conducting that inspection), and further afield when required. [Clients included the Legal Aid Agency and the DWP]. He set out possible expansion plans for the future, and explained that control and authorisation had been given careful attention.

Examination of Central Record:

14. The records have been reorganized centrally in standard computerized form on a secure file; and a record management system for individual overview has been instituted.
15. Since the last at inspection there has been seventeen approved authorisations, of which one was a related *CHIS*. Six were from Trading Standards and eleven from the Fraud Team. It had been noted at the last inspection that the quality of inspections was improving and this trend, with two lapses, has been maintained. I was able to examine the retained hard copies of the subsequent operations, and I noted the following:
 - three Trading Standards investigations into housing benefit allegations [122 to 124] subsequent to the last inspection, maintained sound standards
 - The following two inquiries into counterfeit goods for sale on the internet were, for some unaccountable reason, not captured on the central register, although the paperwork itself was appropriate. This error was discovered, on inspection by Mr Henley, and reported by him to the Standards and Audit Committee in December 2104. Active steps were then taken to improve the systems and commission further training
 - '125' was a successful investigation into change of housing circumstances, although '126' was unable to further an inquiry into internet goods.
 - Further authorisations included an underage test purchase operation which despite good information did not reveal any miss selling; and a successful investigation into [REDACTED]

- ██████████ selling involving large amounts and resulting in arrests.
- '132' records a major operation led by David Kleinberg into a fraudulent, million pound, operation selling ██████████
 - in the last year there have been a number of applications and one operation of note, '136' and the associated '137', concerned the selling ██████████
██████████ but by the time it was set up the goods were no longer available. All stages were properly recorded and monitored.
 - others included '139' the investigating of the laundering of large amounts of illegally obtained cash ██████████ and the most recent '140' the supplying of ██████████
 - It was pleasing to see an apparent confidence to use the powers when other avenues had been exhausted, and the maintaining of standards in both applications and authorisations was noticeable.

Policy, Procedures and Structure:

16. The current *Corporate Policy* document is updated and approved annually by the Standards and Audit Committee, the last occasion being in June of this year. It runs to 28 pages with a variety of appendices. It is comprehensive and clearly written. It has a useful section on the handling of material and the use of material as evidence and a good appendix on best practice regarding photographic and video evidence. It includes useful practical examples where appropriate, a good early example being in relation to 'proportionality'.
17. There were several areas which came under discussion where additions or further explanations might improve the overall quality:
 - The introductory "Brief Overview" could include reference to the 2014 Home Office Codes of Practice and the OSC Procedures and Guidance.
 - The *CHIS* section is given proper attention and in addition refers to an Officer's Aide-Memoire [a useful document], but should also indicate it is to be found in the Appendix
 - Section 6: 'Judicial Authorisation' refers to assistance being given by the 'appropriate officer' and later the 'attending officer'. It was agreed that the preferred policy of presentation by the Authorisation Officer in addition to the single point of contact would be set out
 - It was also noted that it would be helpful to add the well-known flow charts relating to authorising procedures and the application to the Magistrates.
18. The one area, however, missing and needing inclusion, is guidance in relation to the wide spread use [and consequent problems] of social

media and the internet. I was assured that this topic was very much 'on the radar' and a suitable section taking into account Para 288 of the Procedures and Guidance would be inserted.

19. The reduced number of RIPA post holders (following recommendation [iii])are listed at Appendix 5 with their contact numbers. In addition to the Chief Executive with responsibility for the sensitive and specialized areas, the SRO David Lawson was listed as an Authorisation Officer to act only in exceptional circumstances to as to avoid potential conflict with oversight responsibilities. The Director of Finance and IT continues as an Authorising Officer and consideration is being given to the appointment of two further officers of appropriate seniority who will be given continuation training at the January session.

Recommendations

Training:

20. There has been a consistent policy of training. The records show that in 2014 and 2015 Olwen Dutton of Bevan Brittan (adopting recommendation [I]) provided two separate professional sessions to over twenty-five involved officers in each year, and training material was retained by further reference. Detailed sessions have been booked for all officers in January 2017.

Councillors

21. Mr. Henley has also ensured that availability of information to elected members has broadened both through uses of the intranet and in formal reporting. There is enthusiasm by the elected members for the work of the growing fraud investigation section, and as Coordinating Officer and SPOC he reports to the Standards and Audit Committee every six months. Those reports had been retained and were inspected.

CCTV

22. The council's CCTV centre is some three miles away at Tilbury. I did not visit the control room, although I have read the comprehensive Code of Practice, and was assured appropriate standards were kept. The system, covering both town centres and housing estates, operates over 300cameras and the staff have all attended a four day course and are SIA qualified. Record keeping systems are in place although there had been no police RIPA authorised request for 'some considerable time.'

Conclusions

23. It is pleasing to report not only an enthusiasm to do the job properly, but also an efficient systems in place so that the tool can be used effectively in necessary circumstances. While Mr Lawson provides the oversight, Mr Henley has brought thoughtful enthusiasm and instituted a number of useful management procedures, and my impression is that the Trading Standards team and the Fraud Investigation teams having fairly regular use, provide pointers and learning to each other.
24. There is clear backing from the Chief Executive, and the indicators are that with a training session booked for early next year , all officers will be prepared for efficient and effective future use.
25. I wish finally to record my thanks to Mr Henley for his organization and hospitality, and all the other officers for their cooperation and help during my inspection.

Recommendations

30. *i: changes and additions to the Policy and Procedures Document as agreed*
ii: ensure that the newly deputed Authorising Officers have appropriate update training at the next session.

Brian Barker,
Assistant Surveillance Commissioner.