



Office of Surveillance
Commissioners

OSC INSP/075

The Rt. Hon. Sir Christopher Rose
Chief Surveillance Commissioner
PO Box 29105
London SW1 1ZU

28th June 2013

OSC INSPECTION REPORT- SEVENOAKS DISTRICT COUNCIL.

The inspection took place on Wednesday 19th of June 2013.

Inspector

Mr Kevin Davis.

General Description

1. Sevenoaks District Council serves a population of approximately 114,000 and covers the western most part of Kent in England. To the North West the district borders with two Greater London Boroughs (Bromley and Bexley) in Swanley, as well as Surrey to the West near Westerham and East Sussex to the South near Edenbridge.
2. The Council provides a range of tier two services and employs in the region of 455 personnel.
3. The Chief Executive is Mr Robin Hales. He is supported by a Chief Executive Designate who has overall responsibility for all service provision.
4. The address for correspondence is Sevenoaks District Council, The Council Offices, Argyle Road ; Sevenoaks , Kent TN13 1HG.

Inspection Approach

5. The purpose of the inspection was to examine policies, procedures, operations and administration in relation to directed surveillance and covert human intelligence sources (CHIS) under the Regulation of Investigatory Powers Act 2000 (RIPA).
6. During the inspection I had discussions with the following members of staff:
 - Ms Christine Nuttall (Chief Officer Legal and Governance)
 - Mr Leslie Roberts (Legal Services Manager)
 - Mr Glen Moore (Audit)

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- Mr Richard Wilson (Environmental and Operational Services)
- Mr Adrian Rowbotham (Finance Services)
- Mr David Whitmarsh (Community and Consultation Manager).

Review of Progress

- 7 His Honour Norman Jones in his inspection report in July 2010 made three recommendations:

1) Reduce the number of authorising officers and identify them by rank and name.

Action

The number has been reduced and documented in the 'Surveillance Policy' document.

Discharged

2) Establish a structured training programme.

Action

The Council has failed to comply with this recommendation.

Extant

3) Amend the surveillance policy document

Action

The Council has complied with this recommendation.

Discharged

Policies and procedures

- 8 The Chief Officer Legal and Governance Ms Christine Nuttall is the Senior Responsible Officer (SRO) in accordance with paragraph 3.28 of the revised Codes of Practice. In interview it was evident that she was keen to ensure compliance. The day-to-day administration of RIPA is managed by the Legal Services Manager Mr Leslie Roberts.
- 9 Policies and procedures relating to covert surveillance and CHIS are contained in a comprehensive and easy to understand policy document. Following the inspection by HH

Norman Jones in 2010 it was amended to address recommendation three. The document has been further updated (June 2013) in light of the Protection of Freedoms Act 2012, I would suggest that the new version would benefit from the addition of a narrative section outlining the process for seeking 'Judicial Approval', which is currently only shown in a flow chart at the at the end of the document.

- 10 Paragraph 3.30 of the Covert Surveillance and Property Interference states the following;

'In addition, elected members of a local authority should review the authority's use of the 2000 Act and set out the policy at least once a year. They should also consider internal reports on the use of the 2000 Act on at least a quarterly basis to ensure that it is being used consistently with the local authority's policy and that the policy remains fit for purpose. They should not however, be involved in making decisions on specific authorisations.'

In discussions with Mr Roberts it would appear that the above requirement has not been complied with since 2010, I was assured that the matter would be dealt with as a matter of urgency

- 11 In addition to the Chief Executive there are three authorising officers who are named in RIPA policy document. The number has been reduced in light of recommendation one of the 2010 inspection report.

Training

- 12 **Mr Roberts has been in post for a period of seven months and has recognised that since 2007 there has not been any formal training delivered within the Council. In light of the Protection of Freedoms Act he has identified a private company to deliver training as a matter of urgency. It is envisaged that this will be undertaken in conjunction with a neighbouring authority.**

Significant issues

Council ethos

- 13 The Council is not a regular user of the powers vested under RIPA. I was informed that the ethos of Council, notwithstanding its legal responsibilities is that it is not afraid to undertake covert activity/enforcement and subsequent prosecution where necessary, but would prefer to secure compliance through education and raising awareness. In light of paragraph ten above, I was unable to find any record of formal discussions within the elected members on the matter.

Central Record of Authorisations

- 14 The Central Record of Authorisation is compliant with paragraph 8.1 of the revised Code of Practice for Covert Surveillance and Property Interference.

Directed Surveillance

- 15 Directed surveillance has been authorised on one occasion since the last inspection in September 2012. The authorisation related to an investigation into alleged housing benefit fraud. I examined the paperwork and make the following observations.
- 16 The applicant set out the investigative objectives of the covert activity along with a narrative of the intelligence **but failed to outline of the provenance of the intelligence. The OSC guidance at note 109 states the following:**

'To assist an authorising officer to reach a proper judgement, the provenance of the data, information or intelligence on which the application has been made should be clear. It is considered best practice for law enforcement agencies to utilise standard evaluation nomenclature which grades both the source and the information. While it is not necessary or desirable in the application to spell out in detail the content of intelligence logs, cross referencing to these enables an authorising officer to check detail. Particular care should be taken when using data or information obtained from open or unevaluated sources'.

- 17 The issues of proportionality, necessity and collateral intrusion were argued cogently. I was pleased to note that, in order to reduce the collateral intrusion of the proposed surveillance in a residential area, the applicant had suggested a limit of 30 minutes each morning and evening. The applicant was of the opinion that during these two key periods the required intelligence could be obtained.
- 18 The authorisation was of a good standard and followed the OSC guidance at note 117 i.e. who, what, where, when and how. My only observation is that the authorising officer detailed that the surveillance should be undertaken for a period of one month. The Code of Practice states at paragraph 5.10 states the following;

'A written authorisation granted by an authorising officer will cease to have effect (unless renewed or cancelled) at the end of a period of three months beginning with the time at which it took effect'.

- 19 The covert activity was not reviewed during the period of authorisation but the cancellation was timely and complied with OSC guidance.

CHIS

- 20 There have been no authorisations for CHIS since the last inspection. This is an area of covert activity that Council does not believe they have the experience or desire to embark upon.

Focus group

- 21 I interviewed a focus group of both practitioners and an authorising officer. Despite the lack of recent formal training all had a good knowledge of the legislation and were familiar with the new requirements introduced in the Protection of Freedoms Act 2012. The group supported the ethos of the Council of seeking compliance through education and awareness.
- 22 There was an interesting discussion with regard to social network sites. Some members of the group utilised SNS as an intelligence gathering tool on a regular basis. Although those interviewed were not familiar with the OSC guidance on the matter I found nothing to indicate any activity that was not compliant with the legislation.

Observations

- 23 Sevenoaks District Council is not a significant user of RIPA but it was evident from the inspection that they are keen to discharge their legal responsibilities appropriately. Though their use may be infrequent there is a need to ensure the correct processes are in place in accordance with the legislation.

Finally, I would to thank all of those who participated so positively in the inspection process, and in particular Mr Leslie Roberts for making all the necessary arrangements.

Recommendations

- 24 The Council ensure that the Code of Practice paragraph 3.30 is complied with as a matter of urgency (see paragraph ten of this report).
- 25 The Council ensure that the extant recommendation of 2010 with regard to training is acted upon without delay (see paragraph 12 of this report and recommendation two of the 2010 inspection report).
- 26 That future training encompasses the issues identified in paragraphs 16 and 18 of this report.

Kevin Davis

Surveillance Inspector.



Office of Surveillance
Commissioners

CORPORATE RESOURCES

26 JUL 2013

SECRETARIAT



Chief
Surveillance
Commissioner

25th July 2013

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Dear Mr. Hales,

Covert Surveillance

On 19 June 2013, one of my Inspectors, Mr Kevin Davis, visited your Council on my behalf to review your management of covert activities. I am grateful to you for the facilities afforded for the inspection.

I enclose a copy of Mr Davis's report which I endorse. Your Council is not a significant user of RIPA but the officials seen by Mr Davis are keen to discharged their legal responsibilities properly.

The recommendations are that, as a matter of urgency, para 3030 of the Covert Surveillance and Property Interference Code of Practice be complied with, that the 2010 recommendation on training be acted upon without delay and that the future training address the issues indentified in paras 16 and 18 of the report.

I shall be glad to learn that your Council accepts the recommendations and will see that they are implemented.

One of the main functions of review is to enable public authorities to improve their understanding and conduct of covert activities. I hope your Council finds this process constructive.

Please let this Office know if it can help at any time.

Mr Robin Hales
Chief Executive
Sevenoaks District Council
Council Offices
Argyle Road
Kent
TN13 1HG

*Yours sincerely,
Christopher Rose*

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OFFICE OF SURVEILLANCE COMMISSIONERS

INSPECTION REPORT

Sevenoaks District Council

19th June 2013

**Assistant Surveillance Inspector:
Mr Kevin Davis**

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This report contains the observations and recommendations identified by an individual surveillance inspector, or team of surveillance inspectors, during an inspection of the specified public authority conducted on behalf of the Chief Surveillance Commissioner.

The inspection was limited by time and could only sample a small proportion of covert activity in order to make a subjective assessment of compliance. Failure to raise issues in this report should not automatically be construed as endorsement of the unreported practices.

The advice and guidance provided by the inspector(s) during the inspection could only reflect the inspectors' subjective opinion and does not constitute an endorsed judicial interpretation of the legislation. Fundamental changes to practices or procedures should not be implemented unless and until the recommendations in this report are endorsed by the Chief Surveillance Commissioner.

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