



Chief
Surveillance
Commissioner

OFFICIAL - SENSITIVE

18th June 2014

Dear Mr. Lancaster,

Covert Surveillance

On 4th June 2014, an Assistant Surveillance Commissioner, Sir David Clarke, 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 Sir David's report which I endorse. Your Council is in the process of major structural changes with experienced personnel departing. But Mr Jennings, your RIPA Central Monitoring Officer, will provide valuable continuity.

The recommendations are that your Policy be further revised as indicated in paragraph 17 of the report and that the incoming SRO and Mr Jennings conduct a training needs analysis to ensure that appropriate training is provided for all staff likely to be involved with RIPA.

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.

*Yours sincerely,
Christopher Rose*

Mrs Joanne Lancaster
Managing Director
Huntingdonshire District Council
Pathfinder House
St Mary's Street
Huntingdon
Cambridgeshire PE29 3TN

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Office of Surveillance
Commissioners

OFFICE OF SURVEILLANCE COMMISSIONERS

INSPECTION REPORT

Huntingdonshire District Council

4th June 2014

**Assistant Surveillance Commissioner:
Sir David Clarke.**

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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.

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Office of Surveillance
Commissioners

Chief Surveillance Commissioner
Office of Surveillance Commissioners,
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6th June 2014

HUNTINGDONSHIRE DISTRICT COUNCIL

INSPECTION REPORT

Inspection date 4th June 2014

Inspector Sir David Clarke
Assistant Surveillance Commissioner

Introduction

1. Huntingdonshire District Council (HDC) serves a population of some 164,000 in Huntingdon, St Ives, St Neots, Ramsey and the surrounding villages and countryside. It lies in Cambridgeshire, but its area is approximately coterminous with that of the former Huntingdonshire County Council.
2. The last OSC inspection of HDC was conducted by Kevin Davis, Surveillance Inspector, on 24th June 2011. In his report the Inspector gave HDC a substantially clean bill of health and made a single formal recommendation.
3. The senior management structure of HDC is undergoing extensive revision. At the time of the last report in 2011 the Chief Executive was supported by two Managing Directors and ten Heads of Service. The post of Chief Executive has been discontinued. The present structure comprises the Managing Director (Head of Paid Service), two Assistant Directors and four Heads of Service. A further restructure is now in progress. Five of the six individuals below the rank of Managing Director have either departed or are to depart shortly. New appointments are being made, to revised grades. The implications of this for HDC's RIPA structure are considered below.
4. The Managing Director is Mrs Joanne Lancaster, whose address is Pathfinder House, St Mary's Street, Huntingdon, Cambridgeshire PE29 3TN. Mrs Lancaster is a former Assistant Chief Executive of Wolverhampton City Council.

5. HDC participates in the Cambridgeshire Tenancy Fraud Forum, a loose partnership of three local authorities and their arms-length housing providers to share information and promote good practice in tackling housing benefit fraud. Discussions are also in progress, though at an early stage, with neighbouring local authorities for the sharing of legal and democratic services.
6. HDC has made one authorisation of directed surveillance since the last inspection. It was made in April 2012. Thus, none has been made since the legislative changes of November 2012.

Inspection

7. I carried out the inspection on 4th June 2014 at Pathfinder House. I met the following council officers:
 - Colin Meadowcroft, a solicitor, Head of Legal and Democratic Services, HDC's Monitoring Officer and RIPA Senior Responsible Officer (SRO);
 - Nick Jennings, Corporate Fraud Manager and RIPA Central Monitoring Officer.
8. The inspection took the form of a discussion of HDC's RIPA management, policy and procedures, the designated authorising officers (AOs), and training, all against the background of the extensive restructuring which has taken place and is continuing. With only one RIPA authorisation to be examined, the focus of my inspection was to ensure that the HDC's RIPA structure is still in good health, that RIPA awareness is maintained and that the necessary structure and procedures are in place if and when the need arises.
9. I am grateful to both officers for their welcome and their friendly engagement with my inspection, and for providing my transport back to the railway station after my visit. Mr Jennings, who made the arrangements and provided material in advance, is a veteran of previous OSC inspections.

Progress against recommendation

10. Mr Davis recommended that the Central Record should be expanded to include columns for use of the urgency provisions, confidential information and self-authorisation. The format of the Central record has not in fact been altered, there having been so little RIPA usage since the last inspection, but following discussion I shall not repeat this recommendation. The urgent oral authorisation procedure is no longer available to local authorities¹. Because the Authorising Officers (AOs) are or will be senior HDC officials, there is no risk of self-authorisation taking place. As to confidential information, none of the areas of activity in which directed surveillance might be authorised is likely to elicit such information. The record is maintained manually by Mr Jennings, who is aware of the special requirements relating to self-authorisation and confidential information, and I consider that it therefore constitutes a sufficient

¹ Protection of Freedoms Act 2012, Schedule 9, Part 3, paragraph 9(2), amending RIPA s.43 by adding subsection (1A)

central record for HDC's purposes. I am therefore content to discharge the recommendation.

RIPA Structure

11. Since the last inspection Mr Meadowcroft has assumed the role of SRO following the departure of Mr Wayland Smalley. He is himself departing shortly, and it is likely that his successor as Head of Legal Services, albeit perhaps at a different level in the hierarchy, will be designated to fill the role. If not already trained in RIPA, the new SRO will need such training at the outset.
12. At the time of the last OSC inspection in 2011 there were 15 AOs. Following discussion with their external training adviser this number was reduced to seven, but these include the SRO, who in fact made the one authorisation in the period under review. It would be preferable in future to avoid this duplication of roles; an important part of the SRO's function is to provide oversight of the activities of AOs.
13. A number of the present AOs are amongst those who are leaving or have already left. At an early stage, the new SRO will, with the concurrence of the Managing Director, need to designate new AOs and ensure that they are suitably trained for this role. Two or perhaps three should suffice.
14. Mr Jennings has acted for some years as RIPA Central Monitoring Officer and keeper of the central record. He is highly knowledgeable and competent in RIPA matters. I expressed my personal preference for the title of RIPA Coordinator, which HDC may decide to adopt but I do not make this as a formal recommendation.
15. HDC's RIPA Policy and Procedure document (the *Policy*) has been updated in the light of the 2012 legislative changes. It is a clear and readable document, most of which is accessible to its non-lawyer readers.
16. Unlike the policy documents of many local authorities, the *Policy* contains good guidance for recognising the circumstances in which a member of the public giving information to the council, albeit not asked or commissioned to obtain it, may in reality be a covert human information source (CHIS) to whom a duty of care is owed. It also contains a useful section on non-RIPA surveillance, which may in exceptional circumstances become necessary and proportionate in cases which do not pass the new minimum thresholds for RIPA authorisation of directed surveillance. Mr Jennings explained that these passages were incorporated at the suggestion of the external training provider, Paul Fowler.
17. I made a number of suggestions for further improvement of the *Policy*, which were carefully noted. Most of these revisions are textual and will be made at once without needing a formal recommendation. One important omission, however, is a clear statement of the bullet-point principles of proportionality, to be expressly addressed by applicants and AOs; these are contained in

paragraph 3.6 of the Covert Surveillance etc Code of Practice and paragraph 107 of OSC Procedures & Guidance.

See recommendation

18. We briefly discussed the Home Office Guidance on obtaining judicial approval, particularly paragraph 43 which suggests that the investigator should attend to make the application and deal with the magistrate's questions. I explained your view that since it will be the AO's decision which is under review, logically the AO should attend. This will generally be impracticable in the case of HDC, the AOs being senior officers of the council. There is therefore all the more need for the AO to set out his authorisation and reasoning in full detail when completing the form. The matter will no doubt be considered on a case-by-case basis, when it arises.
19. The RIPA Liaison Group, noted with approval in the last two OSC reports, has not met recently but is to be revived when the present restructure is completed and new officers in place. It will play an important in maintaining the necessary RIPA awareness in a council which makes little use of its RIPA powers.

Training

20. Corporate RIPA training has previously been delivered by Paul Fowler (PHF Training), who has also advised on the *Policy* as described above. Separate training for AOs and Applicants took place in 2012. Fresh training to be arranged when the restructure is completed.

Examination of Central Record and authorisation

21. The Central Record constitutes a sufficient record; see paragraph 10 above.
22. The one directed surveillance authorisation was made in connection with excessive loud noise from a public house late into the night at weekends. Noise measuring equipment was to be covertly placed within the public house, because of a belief that there was not only a nuisance to neighbours but a risk to the health and safety of staff and customers within the premises.
23. The applicant and AO articulated the necessity and proportionality of this action fully and thoughtfully. The equipment was to be used on two nights only. Correctly, however, the expiry date was set at three months but a very early review date was set to take place the following week. One review was held and the authorisation continued because there was no excessive noise on that first weekend, but on second review the authorisation was formally cancelled.²

² The applicant did not need to use a review form, since he was not asking for the authorisation to continue; but this is not a compliance issue since the AO not only endorsed the review form but also completed a formal cancellation.

CCTV

24. I did not need to visit the CCTV control room on this occasion. The protocol with Cambridgeshire Constabulary, and the RIPA awareness of the CCTV operators, remain in good order. The *Policy* document itself emphasises the requirement for a directed surveillance authorisation to be in place before the overt CCTV system may be used covertly in a targeted operation.

Conclusions

25. I am happy to endorse the favourable conclusions of the Inspector who reported in 2011. Though HDC is in the process of major structural changes, with experienced personnel departing, there is good reason to hope for a smooth transition. Strong reliance will continued to be placed on Mr Jennings who will provide valuable continuity as RIPA Coordinator.

26. I therefore make the following

Recommendations

- I. *That HDC's RIPA Policy be further revised in accordance with this report;*
- II. *That the incoming SRO, with the assistance of the RIPA Coordinator, conduct a training needs analysis so as to ensure that RIPA training is arranged for all AOs (including the Head of Paid Service) and to all investigatory or enforcement staff who are potential RIPA applicants, and that such training then be provided.*

David Clarke
Assistant Surveillance Commissioner

