



Haringey Council

Agenda item:

**Audit Committee**

**On 3 February 2011**

Report Title: Office of the Surveillance Commissioners (OSC) Inspection

Report authorised by: Director of Corporate Resources

*J. Pender 26/1/11*

Report of and Contact Officer: Anne Woods, Head of Audit and Risk Management

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Wards(s) affected: All

Report for: Non-key decision

#### 1. Purpose of the report

1.1 To inform Members of the inspection visit made to Haringey by the Assistant Surveillance Commissioner in November 2010.

1.2 To inform members of the recommendations made by the OSC and the Council's response in order to ensure these are appropriately addressed.

#### 2. State link(s) with Council Plan Priorities and actions and/or other Strategies:

2.1 Audit and Risk Management contribute to the Council priority to deliver excellent, customer focused, cost effective services by ensuring that the Council complies with relevant legislation.

#### 3. Recommendations

3.1 That the Audit Committee notes the content of the OSC inspection report.

3.2 That the Audit Committee approves the action plan to address the recommendations made by the Surveillance Commissioner.

#### 4. Reason for recommendation(s)

4.1 The Audit Committee is responsible for overseeing the Council's arrangements for corporate governance and compliance with its own and other regulations as part of its Terms of Reference. Compliance with legislation in relation to the Regulation of Investigatory Powers Act 2000 (RIPA) falls within this remit. In order to facilitate this,

reports on use and external inspection reports are provided for review and consideration by the Audit Committee.

4.2 Where further action is required or recommended, this is highlighted in the covering report and appendices and included in the recommendations for the Audit Committee.

## **5. Other options considered**

5.1 Not applicable

## **6. Summary**

6.1 The Head of Audit and Risk Management acts as the lead operational officer in relation to compliance with RIPA legislation for the Council. This report outlines the results of the recent inspection of the Council's policies and procedures by the Office of the Surveillance Commission and focuses on:

- The conclusions of the inspector on the Council's policies, procedures, training and application/use of RIPA in practice; and
- The recommendations for improvement and how the Council will address these.

## **7. Head of Legal Services Comments**

7.1 The Head of Legal Services has been consulted in the preparation of this report, and comments as follows.

7.2. In view of the commendable findings contained in the OSC report, there are no direct legal implications arising out of this report. Further, the action plan produced to deal with the minor recommendations found on inspection, are a proportionate and effective solution.

## **8. Chief Financial Officer Comments**

8.1 The Chief Financial Officer has been consulted on the content of this report and notes that there are no financial implications to highlight.

## **9. Head of Procurement Comments**

9.1 Not applicable

## **10. Equalities and Community Cohesion Comments**

10.1 This report deals with how RIPA legislation is applied and used within the Council. Use of directed surveillance could have an impact on the community as a whole if used incorrectly; therefore it is important to ensure that safeguards are in place to

enable the council to comply with the legislation. Used in accordance with the requirements of the Act, directed surveillance can enable the council to improve conditions for those who live and work in the borough.

## **11. Consultation**

11.1 No external consultation was required or undertaken in the production of this report. Consultation has been undertaken with relevant service managers where the application of RIPA is included in their responsibilities to ensure that the recommendations will be addressed.

## **12. Service Financial Comments**

12.1 There are no direct financial implications arising from this report. The costs of ensuring the Council complies with RIPA legislation and operating guidelines are contained and managed within the Audit and Risk Management and relevant service departments' revenue budgets.

## **13. Use of appendices**

13.1 Appendix A – Action Plan  
Appendix B – OSC report

## **14. Local Government (Access to Information) Act 1985**

14.1 For access to the background papers or any further information please contact Anne Woods on 0208 489 5973.

## **15. Background**

15.1 An inspection of the Council's policies and procedures relating to the Regulation of Investigatory Powers Act, 2000 (RIPA) was conducted by an Assistant Surveillance Commissioner (ASC), from the Office of Surveillance Commissioners, on 24 November 2010.

15.2 The inspection focused on directed surveillance and covert human intelligence sources (CHIS) and a range of compliance issues. Broadly speaking these were: policies and procedures, completion of RIPA authorisations, training, and roles and responsibilities, including the role of the Senior Responsible Officer which was introduced in 2010.

15.3 A report on the outcome of the inspection was received by the Chief Executive on 13 December 2010 from the Chief Surveillance Commissioner, the Rt. Hon. Sir

Christopher Rose. This is attached as Appendix B. In summary, the report concludes that the Council has good policies, procedures and training in place.

15.4 Whilst the Chief Surveillance Commissioner stated that the council appeared to be well placed to use the powers available to it under RIPA, the report at Appendix B does contain two recommendations for improving the application of the required processes.

15.5 The Council has confirmed that it accepts the Surveillance Commissioner's recommendations and will implement them in order to ensure full compliance with the requirements of RIPA.

## **16. The Inspection**

16.1 The ASC met with the Head of Audit & Risk Management (the Council's operational lead officer for RIPA), together with the Head of Enforcement to review the Council's use of RIPA.

16.2 The ASC reviewed and discussed the Council's policy and procedures documentation in relation to their operation and best practice. A review of RIPA applications, authorisations, renewals and cancellations was also undertaken. Feedback from the ASC during the course and at the end of the inspection was positive on the understanding and application of RIPA principles across the Council; on the Council's training for Authorised Officers, which was provided in-house by Legal Services; and on the briefing provided to the Senior Responsible Officer in respect of their role and responsibilities.

16.3 The ASC also visited the CCTV control room on the day of the inspection to review the Council's use of CCTV and RIPA implications, including the use of the service by the police. Feedback from the ASC at the end of the inspection was again positive on the CCTV control room operation, the officers' understanding and application of RIPA principles and the use of the service by the police.

## **17. The Report**

17.1 The ASC did not find any material gaps in approach or compliance in the Council's use of RIPA. No omission in information required by the authorisation forms, or the authorising officer statements (apart from one instance) was identified. However, the ASC did make two recommendations to ensure the Council met best practice and improved its existing processes. The recommendations made by the OSC are detailed in Appendix A, which indicates how these are to be addressed and implemented.

17.2 The ASC did raise one point in his report (paragraph 22, page 4) which was not discussed during the inspection visit. The Head of Enforcement has confirmed that Legal opinion was sought prior to the release of any information regarding Enterprise staff wrong doing. The conduct and collusion of the staff was material to the determination of the offences and defences in this case. The Council was satisfied that, following legal advice, the specific circumstances of the case facilitated the use of the information obtained and no challenge was made of its use.

## OSC INSPECTION VISIT NOVEMBER 2010 – ACTION PLAN

OSC Recommendation	Management Response	Deadline and Responsibility
<p><b>Home Office Forms</b> That only the latest versions of the RIPA forms be used in all future applications and authorisations</p>	<p>Agreed. The Head of Audit &amp; Risk Management will:</p> <ol style="list-style-type: none"> <li>1. Update the current guidance notes to include the latest versions of the Home Office forms;</li> <li>2. Formally remind all authorising officers to destroy copies of pre-existing forms and only use the forms contained within the re-issued guidance notes;</li> <li>3. request authorising officers provide copies of the latest guidance notes and forms to their staff; and</li> <li>4. ensure that a final check is undertaken on receipt of completed forms within Audit &amp; Risk Management to ensure that current forms are in use.</li> </ol>	<p>1 February 2011 for points 1, 2 and 3. Ongoing for point 4</p> <p>Head of Audit &amp; Risk Management All Authorising Officers</p>
<p><b>Home Office Forms</b> That care be taken to ensure that review dates are set and adhered to, and that the review dates and correct expiry dates are recorded by Authorising Officers in the authorisation forms so that they can be placed in the Central Record.</p>	<p>Agreed. The Head of Audit &amp; Risk Management will:</p> <ol style="list-style-type: none"> <li>1. Formally remind all authorising officers to set accurate review dates in accordance with Home Office guidance; and</li> <li>2. Ensure that a final check is undertaken on receipt of completed forms within Audit &amp; Risk Management to ensure that review dates have been set.</li> </ol>	<p>1 February 2011 for point 1. Ongoing for point 2</p> <p>Head of Audit &amp; Risk Management All Authorising Officers</p>
<p>The Chief Executive should write to the Chief Surveillance Commissioner confirming the Council's acceptance of the OSC Inspection Report and recommendations.</p>	<p>Agreed.</p>	<p>Completed 23 December 2010</p>

The Rt Hon. Sir Christopher Rose

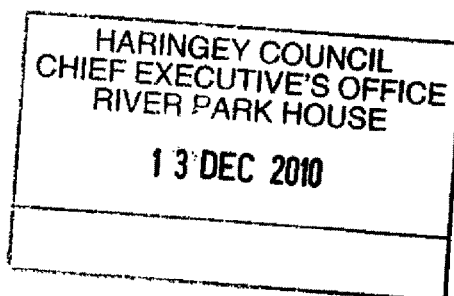


Office of Surveillance  
Commissioners



Chief  
Surveillance  
Commissioner

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9<sup>th</sup> December 2010

*Dear Mr. Crompton,*

**Covert Surveillance**

On 24<sup>th</sup> November 2010, 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. You make infrequent, but appropriate, use of your covert powers. You have a sound RIPA structure, with good policies, procedures and training. All this is commendable. There are only 2 recommendations, but the first relates to a matter to which Dr Kolbert drew attention following inspection 3 years ago and it must now be urgently addressed.

The recommendations are that only up to date RIPA forms be used and that review dates must be set, recorded, placed in the Central Record and adhered to.

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.

*Yours sincerely,  
Christopher Rose*

Mr Kevin Crompton  
Chief Executive  
London Borough of Haringey  
River Park House  
225 High Road  
London N22 8HQ

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**Office of Surveillance  
Commissioners**

**OFFICE OF SURVEILLANCE COMMISSIONERS**

**INSPECTION REPORT**

**COUNCIL OF THE LONDON BOROUGH OF HARINGEY**

**24 November 2010**

**Assistant Surveillance Commissioner:**

**Sir David Clarke**

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### **DISCLAIMER**

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.

The report is sent only to the recipient of the Chief Surveillance Commissioner's letter (normally the Chief Officer of the authority inspected). Copies of the report, or extracts of it, may be distributed at the recipient's discretion but the version received under the covering letter should remain intact as the master version. Distribution beyond the recipient's own authority is permissible but it is requested that the 'Secretary to OSC', Office of Surveillance Commissioners, is informed of the named individuals to whom copies or extracts have been sent. Any references to it, or extracts from it, must be placed in the correct context.

The Office of Surveillance Commissioners (OSC) is not a public body listed under the FOI Act 2000, however, requests for the disclosure to a third party of any information contained within this report should be notified to the Secretary to OSC."

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Office of Surveillance  
Commissioners

OSC/INSP/075

Chief Surveillance Commissioner,  
Office of Surveillance Commissioners,  
PO Box 29105,  
London,  
SW1V 1ZU.

28 November 2010.

## **LONDON BOROUGH OF HARINGEY**

### **INSPECTION REPORT**

Inspection date 24<sup>th</sup> November 2010

Inspector Sir David Clarke  
Assistant Surveillance Commissioner

#### **London Borough of Haringey.**

1. The nature of the area served by the London Borough of Haringey ("LBH") remains as described in earlier OSC reports.
2. The Senior Corporate Management structure is headed by the Chief Executive, supported by five Service Directors. The Chief Executive is now Kevin Crompton, whose address is River Park House, 225 High Road, London N22 8HQ.
3. The most recent OSC inspection of LBH was conducted by HH Dr Colin Kolbert, Assistant Surveillance Commissioner, on the 3<sup>rd</sup> March 2009. That was his third visit to LBH, and he once again reported favourably and made only minor and readily achievable recommendations.
4. The Council has continued to be a modest user of RIPA, having granted only six authorisations since the last inspection. Four of these were made under the "Safer Stronger Communities" umbrella, in relation to vandalism, drug dealing and noisy disorder in housing areas. The other two were under "Urban Environment", one in relation to alcohol sales to already intoxicated purchasers and the other in relation to fly tipping.

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5. None of these applications had used the urgency provisions, none was concerned with the likely acquisition of confidential information, and none concerned Covert Human Intelligence Sources (CHIS).
6. One application for directed surveillance was refused by the authorising officer.

### **Inspection.**

7. I carried out the inspection on 24 November 2010 at the LBH's offices at Alexandra House, Wood Green. I met the following council officers:
  - Anne Woods, Head of Audit and Risk Management;
  - Robin Payne, Head of Enforcement Service and an Authorising Officer

These were the officers interviewed by Dr Kolbert at his inspection in 2009; indeed, Ms Woods was described by him as already a veteran of his two previous inspections. These officers provide valuable and commendable continuity to the Council's RIPA activities.

8. The inspection started with a discussion of the revised Codes of Practice and OSC Guidance, LBH's RIPA management, policy and procedures, the designated authorising officers (AOs), training, and the actions taken on the recommendations in the last OSC report. I then inspected the RIPA authorisations themselves before examining the Central Record, for which purpose I briefly met its keeper Julia Johnson, Principal Auditor. Finally I met Ms Woods again for a final discussion before departing Alexandra House.
9. I then visited LBH's CCTV centre at Ashley Road, Tottenham Hale. I deal with this separately, later in the report.
10. I am grateful to all concerned, particularly Ms Woods, for their helpful cooperation which greatly eased my task.

### **RIPA Structure**

11. LBH's RIPA Procedure Notes, approved by Dr Kolbert at his last inspection, were duly revised as recommended by him and have been further revised to take account of the 2010 revisions to the Codes of Practice. The Notes are clear and accurate, and include full explanations of the requirements of necessity and proportionality.
12. The attached application forms are, however, not the latest versions in that the paragraph references to the Codes of Practice relate to the earlier Codes preceding the 2010 revisions. In particular, the important box for "collateral intrusion" has a wrong reference and is therefore misleading. This is easily remedied by downloading the current forms from the Home Office website.

**See recommendation**

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13. The Procedure Notes include a useful provision that the Lead Officer (Ms Woods) reviews the implementation of RIPA, as well as the policy, on a regular basis. In practice she, together with Julia Johnson, act as *de facto* RIPA co-ordinators and provide the necessary oversight of LBH's RIPA activity.
14. In the light of paragraph 3.28 of the revised Covert Surveillance Code, LBH had appointed Julie Parker, Director of Corporate Resources, as Senior Responsible Officer. I did not meet Ms Parker but I was assured that she is familiar with RIPA principles and practice as a former AO. Ms Woods showed me the clear and cogent briefing note she had prepared for the SRO, setting out her duties and responsibilities.
15. There are now ten designated AOs identified by their names and posts, listed in an appendix to the Procedure Notes. All are appropriately qualified as required by SI 2010/521. They include the incoming Chief Executive, who was previously Chief Executive of Luton Borough Council and is therefore familiar with the role of AO for cases involving confidential information. The AOs are carefully chosen and limited in numbers, in such a way as to ensure that they are properly trained and are regularly updated with any changes of law or procedure. In practice, however, only two LBH officers have had occasion to act as AOs in the period under review.
16. The procedure notes make clear that in the unlikely event of a CHIS authorisation being considered, consultation must first take place with the Head of Audit and Risk Management (Ms Woods) and with the Head of Legal Services, and that specialist training for all relevant officers would be required.
17. The Central Record is as described by Dr Kolbert in paragraph 9 of his last report. The computer spreadsheet contains columns for all the information now required by paragraph 8.1 of the Covert Surveillance Code of Practice, but I found that the column for entering review dates (not itself a requirement of the Code, surprisingly) was blank in most cases. This reflects the fact that in some of the authorisations, no review date was set, contrary to the guidance properly given in paragraph 8.4.1 and 8.4.2 of LBH's Procedure Notes. For the Central Record to serve as a useful management tool, it should record the review dates set by the AO when authorising, rather than recording (after the event) the date on which the review has taken place. Separate columns are provided for recording renewals and cancellations.

**See recommendation**

18. I enquired why LBH's use of covert surveillance seemed lighter than in some London boroughs of comparable size. Ms Woods and Mr Payne explained that they act as gatekeepers, challenging those who wish to use these powers to justify whether they really need to do so, thereby

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testing the proportionality of such action before it reaches an AO for a formal decision. This is commendable. They also explained that increased information sharing and data matching techniques have greatly reduced the need for surveillance, and that no RIPA authorisations have been sought for Housing Benefit cases for some years.

### Training

19. The last training day was held on the day before the last OSC inspection. I was shown the excellent training materials shown to Dr Kolbert on that occasion. Further training is planned but has not yet been fixed. Apart from the arrival of a new Chief Executive, the AOs are unchanged.
20. Ms Woods explained that she provides regular email updates to staff, as she did when the revised Codes of Practice were published earlier in 2010. I am satisfied that the training needs of AOs and applicants are met.

### Examination of Records.

21. The Urban Environment authorisations, for which Mr Payne was the AO, contained good descriptions of the surveillance operations and of the necessity and proportionality of them. However, no expiry dates were entered, despite the prompts on the forms indicating how the time and date of expiry should be shown.
22. In one of these, in which surveillance was authorised to investigate the unlawful depositing of waste by tradesmen, the surveillance revealed LBH refuse collectors helping themselves to fruit and vegetables on display outside a shop. In reliance on this evidence the men were suspended from duty. It appeared to me that this use of the authorised surveillance fell outside the terms of the authorisation and might have been open to challenge.
23. The Safer Communities authorisations, for which the Head of that service was AO, were (save in one case) thorough and well documented. Necessity and proportionality were fully dealt with, except in one case where the AO did no more than tersely state that "*no other overt action would achieve the results required*". The fact that her other authorisations were fully dealt with led me to think this was a one-off error which would have been noticed on the next review by Ms Woods. There was, however, a more systemic failure to record expiry dates, save in one instance where an expiry date was specified but did not comply with the prompt, being three months (without the required deduction of one day) after the authorisation date.

**See recommendation**

24. The refused application was well documented. It was made by the Children's Service of LBH, and concerned surveillance to be carried out

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on the parents of a child who was the subject of ongoing care proceedings, to ascertain whether they had resumed cohabitation and potentially put the child at renewed risk. The AO gave full reasons for his view that covert surveillance was not proportionate and was not likely to achieve the hoped-for results. He might have added that the stated purpose of obtaining further evidence for use in the care proceedings was not an admissible purpose, not being for the prevention or detection of crime.

### **CCTV**

25. I decided to visit the CCTV Control Room to see the operation for myself and because it was not visited at the last inspection. I was welcomed there by James Mehmet. I share Dr Kolbert's opinion, which he formed on an earlier visit, that it is excellent. The close cooperation with the Metropolitan Police continues. It so happened that two officers arrived whilst I was there to view some recorded footage, which was retrieved quickly and efficiently for them.
26. I viewed the CCTV monitoring screens and discussed RIPA issues with the CCTV supervisor Ihsan Iqbal, an employee of NSL Services Group who have been contracted to LBH since 2008 to provide monitoring of the community safety CCTV cameras. Mr Iqbal was clearly well aware of the circumstances in which the police must have and produce RIPA authorisations before being permitted to use the CCTV in a targeted operation, and he showed me several of the confirmation forms ("form 5429") which the police provide to him. These are not full copies of the RIPA authorisations, but give sufficient detail of the operation, with the identity of the police AO, to confirm to NSL and to LBH that valid authorisations are in place.
27. My visit was interrupted by a fire alarm evacuation and I did not feel the need to await the all-clear so as to return and inspect the other part of the CCTV operation, which concerns driving and parking enforcement and is not contracted out.

### **Conclusion**

28. LBH continues to have a sound RIPA structure, with good policies and procedures and good training. However, though Dr Kolbert's recommendation at paragraph 18 was complied with and the then revised form brought into use with the questions set out in a logical order, I found that the latest version had not been downloaded. This is a minor matter, but more significant was the failure to ensure that review dates are consistently set by AOs. This can be readily remedied in future authorisations.

29. I make the following

### **Recommendations**

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- I. That only the latest versions of the RIPA forms be used in all future applications and authorisations;
- II. That care be taken to ensure that review dates are set and adhered to, and that the review dates and correct expiry dates are recorded by AOs in the authorisation forms so that they can be placed in the Central Record.

A handwritten signature in black ink that reads "David Clarke". The signature is written in a cursive, slightly slanted style.

**David Clarke**  
**Assistant Surveillance Commissioner**