



Haringey Council

Agenda item:

[No.]

Audit Committee

On 28 January 2008

Report Title: **Interception of Communication Commissioner's Office (ICCO)
Inspection 2007/08**

Forward Plan reference number (if applicable): **N/A**

Report of: **Head of Audit and Risk Management**

Wards(s) affected: **All**

Report for: **Information**

1. Purpose

- 1.1 To inform the Audit Committee of the inspection visit made to Haringey by the Inspector from the ICCO and the recommendations made as a result.
- 1.2 To inform the Audit Committee of the actions taken to address the ICCO recommendations in order to ensure that these are appropriately addressed.

2. Recommendations

- 2.1 That the Audit Committee notes the content of the ICCO inspection report.
- 2.2 That the Audit Committee notes the action plan to address the recommendations made by the ICCO inspector.

Report Authorised by: **Chief Financial Officer**

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3. Local Government (Access to Information) Act 1985

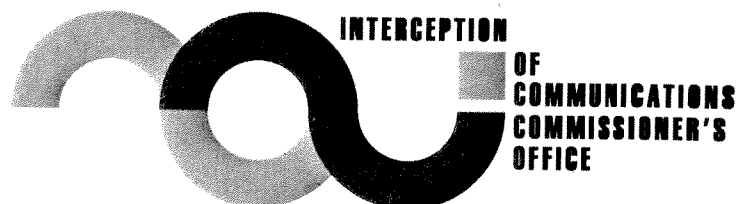
- 3.1 For access to the background papers or any further information please contact Anne Woods on 0208 489 5973.

4. Background

- 4.1 An inspection of the Council's policies and procedures relating to Part 1 Chapter 2 of the Regulation of Investigatory Powers Act (RIPA) 2000 was conducted by an Inspector from the Interception of Communication Commissioner's Office (ICCO). The ICCO is responsible for ensuring that organisations which are authorised to access communications data under Part 1 chapter 2 of RIPA comply with relevant legislation. The ICCO provides advice and guidance both on compliance with RIPA and good practice.
- 4.2 The ICCO acts independently to the Chief Surveillance Commissioner. Both Commissioners have statutory duties in relation to RIPA and the oversight of parts of the legislation, but their respective inspection teams act independently. Haringey has previously been inspected by the Chief Surveillance Commissioner and the reports together with the council's responses have been provided to the Audit Committee for information and approval. The Chief Surveillance Commissioner is primarily concerned with the issue of directed surveillance under RIPA.
- 4.3 The ICCO's primary objectives of inspections are to :
- Ensure that the system in place for acquiring and disclosing communications data is sufficient for the purposes of the Act and that all relevant records have been kept for annual inspection;
 - Ensure that all accessing of communications data has been carried out lawfully and in accordance with the Human Rights Act, Part 1 Chapter 2 of RIPA and the associated draft code of practice;
 - Provide independent oversight to the process and verify that the data which has been obtained is necessary and proportionate to the conduct being authorised
 - Ensure that errors are being reported and that systems are reviewed and adapted in the light of any exposed weaknesses or faults;
 - Identify good and bad practice and disseminate findings to local authorities; and
 - Ensure that persons engaged in the acquisition of data are adequately trained and aware of the relevant parts of the legislation.
- 4.4 Haringey Council provides information to the ICCO on an annual basis in respect of data obtained via Part 1 Chapter 2 of RIPA. The ICCO in turn reports to Parliament via the Home Office and Secretary of State.
- 4.5 A report on the outcome of the inspection was received by the Chief Executive on 13 June 2007 from the ICCO. This is attached as Appendix A to this report. In summary, the report concludes that communications data is being obtained lawfully and for the correct purpose.
- 4.6 Whilst the ICCO Inspector stated that the council is obtaining communications data lawfully, the report at Appendix A does contain some suggestions for improving the applications of the required processes. An action plan has been completed and is attached at Appendix B to this report.
- 4.7 Confirmation was sent to the ICCO in September 2007 that the recommendations raised would be accepted and implemented.

5. The Inspection

- 5.1 The ICCO Inspector met with the Head of Audit & Risk Management (the Council's lead officer for RIPA), together with representatives from Legal Services and the Enforcement Team within Urban Environment who are involved in RIPA processes for communications data across the council.
- 5.2 The ICCO Inspector reviewed and discussed the council's policy and procedures documentation in relation to their operation and good practice. A review of the applications made in respect of communications data under RIPA was also undertaken. Feedback from the ICCO Inspector during the course and at the end of the inspection indicated that the council and its officers understood its role and responsibilities under RIPA.
- 5.3 The recommendations which were made by the ICCO Inspector are detailed at Appendix B to this report. There were no significant weaknesses identified by the ICCO Inspector, therefore the recommendations focused on improving processes to make the best use of the legislation and ensure that good practice points were included within the existing procedures.
- 5.4 In some cases, recommendations could be implemented with immediate effect, and this was done as soon as the report was received from the ICCO. Implementation of recommendations in relation to new RIPA forms was delayed until the draft forms were approved by the Home Office and released for general use. This was completed in October 2007 and the new forms were integrated into the council's RIPA procedures. Copies of the revised procedures and new Home Office RIPA forms were then circulated to all authorising officers and details placed on the council's intranet.



Dr Ita O'Donovan
Haringey Council
Civic Centre
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N22 8LE

13 June 2007

Dear Madam,

**INSPECTION BY THE INTERCEPTION OF COMMUNICATIONS COMMISSIONER'S
OFFICE (IOCCO) – HARINGEY COUNCIL**

Please receive the enclosed report which outlines the findings from the recent inspection of the arrangements which are in place in relation to the acquisition of communications data under Part I Chapter II of the Regulation of Investigatory Powers Act.

I have sent copies of the report to Anne Woods (Head of Audit and Risk Management), Joyce Golder (Principal Solicitor), Robin Payne (Assistant Director), Paul Boeuf (Team Leader for Trading Standards) and Robert Curtis (Environmental Crime Service). Please feel free to disseminate this report to any other members of your organisation, as you consider appropriate.

Sir Paul Kennedy, Interception of Communications Commissioner, has seen the report and approved its contents. As you will see from the report the Inspector was pleased with the quality of the one application form which had been submitted and was satisfied that it was necessary and proportionate. It is acknowledged that the current level of usage of RIPA powers is very low and we feel the Council should consider whether it can make more use of communications data as a powerful investigative tool to prevent and detect crime or disorder. It is hoped that the advice given during the inspection by Inspector Cloke will promote increased use. Adoption of the new application form should also streamline the processes and make them less bureaucratic.

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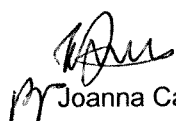
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The inspection found that there were a number of omissions in relation to the role being performed by the SPoC and Inspector Cloke has made some recommendations in the report which should assist the Council to achieve the best possible level of compliance with the Act and draft Code of Practice in this respect. Furthermore, it is worthy of note that when RIPA was introduced undertakings were given to both Parliament and the Communications Service Providers (CSP's) that public authorities would have one Single Point of Contact per public authority. Therefore we have recommended that if another department, such as Environmental Crime Services needs to acquire communications data, that they use the SPoC within Trading Standards.

A number of other action points flow from the inspection and these are contained in the Action Plan appended to the report. I believe that most of the action points can be dealt with fairly easily and quickly and within two months from receipt of the report. However if more time is required please let me know. I should be grateful if you would acknowledge receipt of the report and indicate by 12 August 2007 or earlier whether you accept the findings. The completed Action Plan should be returned when all of the action points have been dealt with.

Any feedback you wish to provide regarding the conduct of the inspection would be most welcome. Currently it is our intention to carry out a further inspection in about 12 month's time. If you or a member of your staff requires any further information please do not hesitate to contact me at the address below.

Finally on behalf of the Commissioner I wish to thank you and your staff for the excellent assistance and cooperation which enabled Inspector Cloke to conduct the inspection in a positive and constructive manner.



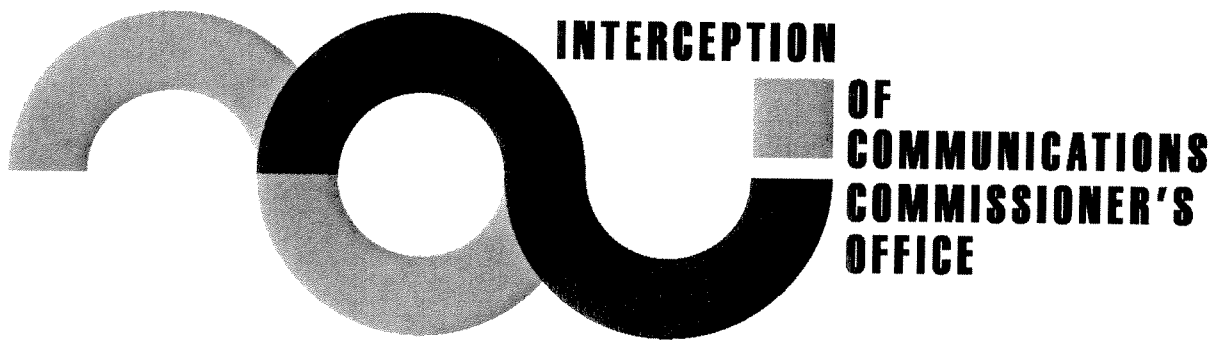
Joanna Cavan

Acting Chief Inspector

IOCCO

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Local Authority Inspections
by the Interception of Communications
Commissioner's Office

London Borough Council of Haringey
20 March 2007

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1. Introduction

- 1.1 Between the hours of 10:00 hours and 13:30 hours on Tuesday 20th March 2007 I visited Haringey Council to inspect the arrangements in place in relation to the acquisition and disclosure of communications data under Part I Chapter II of the Regulation of Investigatory Powers Act. This was the first formal inspection of this Public Authority.
- 1.2 I was assisted throughout my visit by Anne Woods, the Senior Responsible Officer and Head of Audit and Risk Management. Also present for the first phase of the inspection was Joyce Golder, the Councils Principal Solicitor; Robin Payne, an Assistant Director and potential Designated Person (DP) and Paul Boeuf, the Team Leader for Trading Standards and accredited officer (AO) in the SPoC. There is a second AO, Robert Curtis, who is part of the Councils Environmental Crime Service, who was unavailable on the day of the inspection.

2. Haringey Council

- 2.1 The SPoC is located in the Trading Standards Department in the Haringey Council Offices in the Wood Green area of London. The SPoC services all of the Council departments who require access to communications data. The only users in the past have been Trading Standards and Environmental Crime Services. In preparing for the inspection the Council had supplied a nil return for the use of communications data in the current year and had reported two applications for data in the previous year. This had been a misunderstanding as there had only been one application for S21(4)(c) account information made by a member of the Trading Standards Department.
- 2.2 There is potential for the Housing Benefit Fraud Department to acquire communications data. The SRO confirmed during the inspection that the Housing Benefits staff had not acquired communications data and would be applying through the SPoC in Trading Standards if the need arises rather than using powers under the Social Security and Fraud Act. This would be supported by IOCCO as although the Social Security legislation is lawful the Council should bear in mind that following parliamentary debate the Government created a single regulatory regime under RIPA under which public authorities (including local authorities) would have the power to obtain communications data. The oversight of the exercise of these powers is the responsibility of the Interception of Communications Commissioner and the means of redress for complainants is through the Investigatory Powers

Tribunal. Furthermore the draft Code of Practice for Part I Chapter II of RIPA states that *“relevant public authorities for the purposes of Chapter II of Part I of the Act should not use other statutory powers to obtain communications data from a postal or telecommunications operator unless that power is conferred by a warrant or order issued by the Secretary of State or a person holding judicial office.”* It should also be noted that under the SSFA local authorities are restricted to subscriber information only, whereas the power under RIPA is much wider and it enables investigators to obtain data relating to the use of a service which includes itemised call records. This could be quite valuable to the investigator providing he or she can justify that it is both necessary and proportionate to obtain it. I have been to other local authorities who have adopted the policy that they will only use RIPA to acquire communications data and I recommend that Haringey do the same (**Action Point 1**).

3. Opening Discussions

- 3.1 Initial discussions were held with Anne Woods, Joyce Golder and Robin Payne. The statutory oversight role of the Interception Commissioner Sir Paul Kennedy in relation to the acquisition of communications data was explained together with the role of the inspectors.
- 3.2 The primary objectives of the inspection were outlined, these being to:
- Ensure that the system in place for acquiring and disclosing communications data is sufficient for the purposes of the Act and that all relevant records have been kept for annual inspection.
 - Ensure that all acquisition of communications data has been carried out lawfully and in accordance with the HRA, Part I Chapter II of RIPA and the associated Draft Code of Practice (the Code).
 - Provide independent oversight to the process and check that the data which has been obtained is necessary and proportionate to the conduct being authorised.
 - Ensure that errors are being reported and that the systems are reviewed and adapted in the light of any exposed weaknesses or faults.
 - Identify good and bad practice and disseminate our findings to the local authorities through LACORS, after consultation with the Home Office Covert Policy Group.
 - Ensure that persons engaged in the acquisition of data are adequately trained and are aware of the relevant parts of the legislation.

4. **Systems and procedures in place for the acquisition of communications data**
- 4.1 Currently applicants acquire an application form online. They complete this either electronically or print it off and complete by hand. The form is passed directly to the SPoC.
- 4.2 Applications - The application form used by the Council complies fully with the draft Code of Practice however it is based on the original form supplied by the Home Office therefore it does contain some extra requirements many of which add to the unnecessary bureaucracy. The current forms are considered to be overly complex and cause a lot of duplication of information. Before visiting the council I had recommended that they examine the new Home Office application form template which incorporates improvements on the original Home Office versions and combines the application, SPoC Report and Designated Persons considerations. I recommend that Haringey Council adopt this new application form as this will streamline the process considerably and, as will be outlined below, will address some current omissions in the SPoC process (**Action Point 2**). The SPoC can modify the template to suit the particular needs of the Council i.e. by deleting all of the statutory purposes other than Section 22(2)(b).
- 4.3 I can advise that the Commissioner is happy to support the use of e-mail to route the applications, provided a clear audit trail exists and the e-mail attachments are retained for this purpose. The application can be routed from the applicant to the accredited officer (AO), who then prepares the relevant S22(4) Notices and then forwards these with the application onto the DP. The DP can complete his considerations and approval, insert the time and date of issue on any S22(4) Notices, and return the documents to the AO. It would be appropriate to retain the records electronically and only print a hard copy when it is required.
- 4.4 SPoC Arrangements - There are two part time accredited officers (AOs) in the SPoC; Paul Boeuf, Team Leader for Trading Standards, operating out of the Civic Centre and Robert Curtis of the Environmental Crime Services operating out of offices in High Road, Tottenham.
- 4.5 It is worthy of note that when RIPA was introduced undertakings were given to both Parliament and the Communications Service Providers (CSP's) that public authorities would have one Single

Point of Contact per public authority. Given the low volume of applications dealt with I would suggest that it is not really necessary to have more than one SPoC office within the Council. Having one centralised SPoC within the authority placed under the control of one department (i.e. Trading Standards) would bring significant savings in costs and resources. It would also assist IOCCO to have one central SPoC (which can be made up of a number of AO's) because there is a requirement under the draft Code of Practice for each public authority to keep a central record of all applications and make them available for inspection. The SPoC within the Trading Standards Team needs to ensure it is achieving a fairly good level of compliance and in the future we would recommend that if another department, such as Environmental Crime Services, needs to acquire communications data, that they use the SPoC within the Trading Standards Team (**Action Point 3**).

- 4.6 The AOs were not maintaining a central record of applications and this is in part due to the low volume of applications. I explained the benefits of using a central record (preferably on a spreadsheet) to help manage the system if the number of applications increases as well as to make it more easy to provide the records and statistics to the Commissioner as outlined in the Code. Anne Woods demonstrated the spreadsheet in use for managing RIPA Part II applications and I agreed that a similar version for RIPA Part I applications would suffice. This record will ensure that the SPoC can supply the records required of the legislation as well as evidencing them performing their 'guardian and gatekeeper' role as defined in the Code (**Action Point 4**).
- 4.7 One of the first actions by the SPoC is to allocate a unique reference number (URN) to each application. The system in use by Haringey was a sequential number followed by the name of the CSP, for example 3/BT. I recommended that they apply the standard URN configuration that has developed in the majority of SPoCs. That is HARLBC (to identify the Public Authority), followed by a sequential number, followed by the year and in the case of a notice, the same URN followed by a sequential number for each notice. For example the first application for 2007 would be HARLBC/1/07 and the first notice emanating from that application would have the URN: HARLBC/1/07/N1. This should make it easier for the Council to keep track of applications which have more than one notice issued from them (**Action Point 5**).
- 4.8 If there are quality issues to be resolved the applicant is usually consulted as they are in a neighbouring office. There is no

record of these regular consultations and therefore no means of evidencing the SPoC performing their 'guardian and gatekeeper' role as outlined in the Code. The more comprehensive central record should identify applications returned for correction or development and the recommendation made in Para 4.9 below will ensure a record is made in relation to the content of these consultations.

- 4.9 The AO was not completing SPoC log sheets in relation to each application and therefore there was a lack of an audit trail in relation to the actions taken by the AO right from the start of the application process through to the completion. Often where the AO had spoken to the applicant or the CSP, this information was not being recorded. For example, SPoC log sheets are particularly useful to record the actions taken when it is discovered that a number has been ported to another CSP, i.e. 'first CSP replied and outlined number has been ported therefore second notice drafted, sent to DP for issuing and served on new CSP.' It would be difficult with the current format to understand the sequence of events which occurred in such a circumstance. A SPoC log sheet should contain information such as the date the application was received, date notices were drafted and sent to the designated person for approval, the date any notices were served on the CSP's, the date the result/s were received and any communication which has taken place between the SPoC and the applicant, CSP or designated person. The SPoC log sheet should identify the AO who has completed each entry. I recommend that the AO should maintain a SPoC log sheet for each application to ensure there is an audit trail of all of the actions taken by the AO from the start to the end of the process (**Action Point 6**).
- 4.10 When an application is of the required standard the AO is carrying out a feasibility study. However this is not being recorded at present as the AO was unfamiliar with the concept of a SPoC Report. I explained the purpose of a SPoC Report and the duty of the AO to appropriately advise the DP in relation to cost and feasibility as well as recording any additional information for the designated person to consider when approving the application. The SPoC report is included within the new application form which streamlines this process and I recommend that the AO ensures that this section of the application is completed (**Action Point 7**).
- 4.11 The AOs were passing the application, draft notice and blank considerations form to the DP. When approved the AO was requiring the applicant to fax the notice to the appropriate CSP

and the data was then returned by the CSP to the applicant. As outlined in the Code, it is the role of the SPoC to facilitate the lawful acquisition of communications data and effective co-operation between the public authority and the CSP. Therefore the SPoC should be acting as the conduit between the public authority and the CSP, not the applicant. Furthermore it is the role of the SPoC to provide assurance to the CSPs that notices are authentic and lawful and also to assess whether the communications data disclosed by a CSP in response to a notice fulfils the requirements of that the notice. If the data is going straight back to the applicant then the SPoC is not in a position to perform this important function. Consequently I recommend that AO should serve any Notices on the CSP and the data should be disclosed back to the SPoC. It is good practice for the SPoC to then hold the original or 'gold copy' of the data securely and the SPoC should forward a copy to the applicant. All these actions should be recorded on the SPoC log sheet (**Action Point 8**).

- 4.12 Designated Persons Considerations - Keith Betts, Group Manager acted as the designated person (DP) for the one application which had been made. In his absence it is suggested that Robin Payne, the Assistant Director may act as DP. This would comply with the statutory instrument which outlines that the prescribed officer within a Council must be an Assistant Chief Officer, Assistant Head of Service, Service Manager or equivalent.
- 4.13 Designated Persons should not be responsible for giving a notice in relation to investigations or operations in which they are directly involved. Anne Woods is aware of this requirement and considers that both potential DPs are independent of all the applications that may come to them. In the event of the DPs becoming directly involved in an operation I recommend that their involvement in the investigation and their justification for undertaking the role of the designated person must be explicit in their written considerations or alternatively the application could be passed to another DP for approval (**Action Point 9**).
- 4.14 In the only application submitted in the past twelve months the Group Manager, Keith Betts had recorded his considerations on necessity, proportionality and collateral intrusion in writing when approving the application. I found that his considerations were of reasonable quality. The DP signed the S22(4) notice, however he omitted to date the notice which is a requirement of the Code. I recommend that the DPs ensure in the future that they sign, date, and time if relevant, their approval of the application form and any S22(4) notices in order to comply with the draft

Code of Practice. Omission of this information constitutes an error (**Action Point 10**).

- 4.15 I offer the following advice to assist the DPs make their considerations robust and immune to challenge. Firstly it is fundamentally important that DPs must be able to evidence the fact that they have read and considered each application and based their considerations upon the principles of necessity and proportionality. Obviously it is a matter for the individual DP to decide how to demonstrate this effectively, bearing in mind that he or she could be called upon to justify the considerations at a later date in Court or at a Tribunal hearing. It may well be appropriate in some cases to merely record the fact that the DP has read and considered the application, examined the SPoC Report and Notice and that he or she believes that obtaining the data in question is necessary and that obtaining the data by the proposed conduct is proportionate to what is sought to be achieved by obtaining the data or words to that effect. This would largely depend upon the quality of the application and whether the DP is fully satisfied that the applicant has made out a strong case in all respects.
- 4.16 In practice the standard of applications will vary according to the knowledge and experience of the applicant and therefore the DP will often be required to make a more detailed judgement. Equally it may be that the application is for service use data such as billing information which is more intrusive data than the standard subscriber check. The DP comments can then be linked to other information on the application. The DP may be able to make a comment upon the wider strategic objective such as an operation against a team involved in illegal 'loan sharking' or in the case of service use data the DP should consider whether the timescales requested are proportionate. For these reasons IOCCO recommends that the DP should tailor their comments to the individual applications as this is the best means of demonstrating that they have been properly considered (**Action Point 11**).
- 4.17 I also make the point that adoption of the new application form template (as previously recommended in para 4.2 of this report) will streamline this process further as the DP only needs to record his considerations in one box.
- 4.18 Notices - The notice currently in use by Haringey Council is considered overly complex. It is recommended that the Council adopts the new Home Office template for the Notice which is available from the same source as the application form as it is

less complex and more streamlined. This can be modified to suit the particular needs of the Council i.e. by deleting all of the statutory purposes other than Section 22(2)(b). The AO should also ensure that the DP has recorded the date of issue (and where appropriate the time) on any S22(4) notices before they are served on the CSP (**Action Point 12**).

- 4.19 The Council have not found it necessary to cancel any notices to date. I am satisfied that the AOs and the DPs are fully conversant with the procedures surrounding cancellations. The local guidance notes at 1.11 state that a notice must be cancelled if it is no longer required.

5. Content of Applications

- 5.1 I would normally examine a larger sample of applications but due to the infrequent use of the powers this was not possible. The only application was made by Georgina Forde, a trading standards officer, and requested subscriber data under S2(4)(c). I examined this application and overall found it to be of good quality.
- 5.2 The 'nature of the enquiry' section of the application form contained good background information. It clearly specified the offence under investigation and named the suspect. The source of the telephone number obtained was given as an advertisement. In the 'necessity' section the application outlined that the subscriber information would assist in locating the suspect for a PACE interview, which although relevant information, it in fact addresses the principle of proportionality. The 'proportionality' section set out the investigative objectives as locating the subject to facilitate a visit or letter. Collateral intrusion stated that the only data sought was the correct address for the suspect, but did not outline what collateral intrusion there would be, if any.
- 5.3 To assist other applicants I spent some time clarifying with the staff present how each section of the new application form should be completed.
- 5.4 Firstly the new application form will merge the nature of enquiry and necessity sections into one which should reduce the repetition. I can advise that in essence necessity should be a short explanation of the crime (relevant Act or legislation), the suspect, victim or witness and the phone or communications address and how all these three link together. The source of the

telephone number or communications address should also be outlined.

- 5.5 I can advise that in the proportionality section on the new application form applicants should outline what they expect to achieve from obtaining the data and how the level of intrusion is justified when taking into consideration the benefit the data will give to the investigation. Applicants should give an explanation as to why specific date/time periods of data have been requested (how these are proportionate). An explanation of what is going to be done with the communications data once it is acquired and how that action will benefit the investigation or operation will assist with the justification of proportionality.
- 5.6 I can advise that although collateral intrusion is generally minimal on a subscriber check, it is still important for the applicant to consider what collateral intrusion may occur as a result of the request and how this will be managed. In some cases it will be clear that the suspect / trader has been contacted on the actual telephone number by the complainant or a Trading Standards Officer and therefore this reduces the potential for collateral intrusion. Applicants should also mention whether it is known that the telephone number (or other type of data) has been used to advertise the business, either in the press / internet or on business cards / flyers, as this would also be good evidence to show that the trader / suspect is actually using the telephone number and further reduce the potential for collateral intrusion. Collateral intrusion becomes more relevant when applying for service use data and applicants should outline how the time periods requested impact on the collateral intrusion, whether they are likely to obtain data which is outside the realm of their investigation and outline their plans for managing it.
- 5.7 I recommend that the SPoC should follow this guidance in the future when vetting applications and should provide advice to applicants where necessary (**Action Point 13**).

6. Record keeping and security & storage of documents

- 6.1 The Code outlines that certain records must be retained by the public authority and must be made available for annual inspection by the Interception of Communications Commissioner and retained to allow the Investigatory Powers Tribunal, established under Part IV of the Act, to carry out its functions. These records were made available to me during the inspection and therefore it is evident that the Council is complying with the items covered in the draft code of practice. The introduction of

a central record will assist further, particularly if there is an increase in the use of the powers.

- 6.2 The applications for communications data are currently stored in a locked cabinet within a secure office environment. This cabinet is kept permanently locked and access is limited. IT access is username and password protected.

7. Training of public authority staff

- 7.1 The Legal Services Department of the Council in cooperation with Greenwich have run RIPA training days which were attended by all staff, including the Chief Executive. The days raised awareness of RIPA issues including the acquisition of communications data. Investigators and Enforcement Officers also receive training which includes one day covering the RIPA powers.
- 7.2 Training for Haringey Council has been supplied to the SPoC officers by Bond Solon. Unfortunately I found that the SPoC officers were not aware of many of the vital procedures which should be followed, such as SPoC Reports, SPoC log sheets and the SPoC retaining the 'gold copy' of data received. A significant amount of time throughout the inspection was spent explaining these issues. It is also evident that the SPoC has been working in isolation and has not kept themselves up to date with developments, such as the changes to the application forms which were designed to streamline the process and reduce the bureaucracy. I would also advise the Council to regularly visit the Home Office website which contains the most up to date documents and also to contact the Home Office Covert Investigation Policy Team (who hold the SPoC accreditation list) if they require any advice on policy issues in this area. I would also recommend they liaise with neighbouring Councils to share good practice. They have worked closely with Surrey County Council on a regional 'Scam Busters' scheme supported by the Department of Trade and Industry and both Councils may benefit in sharing experiences in relation to the acquisition of communications data.
- 7.3 There are online local guidance notes available for applicants. I examined these and found them quite informative. There was information at 1.8 in the guidance which referred to S22(3) Authorisations and I recommended that this be amended due to the fact that the council is only acquiring data via Notices. In the same regard the references to the urgent oral process at 1.12 are not relevant to the work of the Council. There will be a

requirement to amend the guidance to include advice for the applicants and DPs in relation to the new application form and how it should be completed. This would also provide an opportunity to bring all departments who could benefit from the use of the powers together and promote appropriate use of this valuable investigative aide (**Action Point 14**).

- 7.4 The Council should acquire the latest version of the draft Code of Practice, ensure that AOs have possession of a copy and if possible provide a link from the guidance notes to it (**Action Point 15**).

8. Error reporting

- 8.1 There had been no errors reported by the Council. However the one application they made contained did contain an error as the S22(4) Notice did not specify the date of issue which constitutes non-compliance with the draft Code. I request that this error is reported to the Commissioner using the error reporting form. Reference should be made to the fact that this error was found during the inspection so that the IOCCO Secretariat appreciate this fact and do not follow it up unnecessarily (**Action Point 16**).

9. Summary and Requirement for Action

- 9.1 Any access to communications data by public authorities is an intrusion into someone's privacy. To be justified, such intrusion must satisfy the principles of necessity and proportionality derived from ECHR and embedded in RIPA. It is therefore vital that the correct procedures and rules are followed. If the procedures are not complied with, then any intrusion into a person's privacy may be unlawful by virtue of HRA and a possible action, through the courts (UK or ECHR, European Court of Human Rights), being brought by a member of the public. Additionally anyone who thinks their data has been wrongly acquired will have the right to go to the Investigatory Powers Tribunal.
- 9.2 Overall I was satisfied that communications data is being obtained lawfully and for the correct purpose. I was satisfied that the one application which had been made was necessary and proportionate. Furthermore I was satisfied with the considerations recorded by the DP when he approved the application. I have provided some advice in the report which should assist the applicants and designated persons in the future. Adoption of the

new application form should also streamline the processes and make them less bureaucratic.

- 9.3 There were a number of omissions in relation to the role being performed by the SPoC. Firstly I have recommended that the AOs should ensure that they are completing SPoC Reports and SPoC log sheets which will assist with the audit trail and ensure that they are carrying out their role as outlined in the Code. Secondly I have recommended that the SPoC should ensure that it acts as the conduit between the public authority and the CSPs, by serving the notices on the CSPs, receiving the data disclosed by the CSPs and storing the original data within the SPoC.
- 9.4 Furthermore, it is worthy of note that when RIPA was introduced undertakings were given to both Parliament and the Communications Service Providers (CSP's) that public authorities would have one Single Point of Contact per public authority. It is not for me to tell the Council how to run its business but a preferred solution would be to create a central SPoC which can administer the whole process on behalf of the Council. It would appear to me that the Trading Standards Department is perhaps best placed to do this as it is the more frequent user of the data. Given the current low volume of requests for data across the whole of the council it would probably be more efficient and cost effective to centralise the process. It would also assist IOCCO to have one central SPoC because there is a requirement under the draft Code of Practice for each public authority to keep a central record of all applications and make them available for inspection. I see no problem with the trained AO's in the two departments working together so long as they are using the same systems and processes to acquire and disclose the data. Therefore I have recommended that if another department, such as Environmental Crime Services, needs to acquire communications data, that they use the SPoC within the Trading Standards Team.
- 9.5 A number of other action points arise from the inspection and they are listed in the Appendix to the report. It would be appreciated if the report could be acknowledged and if you would indicate whether the findings and action points are accepted. It would be the intention of the Inspectorate to re-visit Haringey Council within a 12 month period to complete a further inspection.
- 9.6 It is clear that the current level of usage of RIPA powers is very low and the Council should consider whether it can make more use of communications data as a powerful investigative tool to

prevent and detect crime or disorder. It is hoped that the advice given during the inspection will promote increased use and improve the systems and procedures.

- 9.7 I am extremely grateful to Anne Woods and her colleagues for the excellent assistance and cooperation which I received during this visit.

Richard Cloke
Inspector

APPENDIX B
INTERCEPTION OF COMMUNICATIONS COMMISSIONER'S OFFICE – INPSECTION VISIT AND ACTION PLAN

No	Action Point	Agreed	Progress	Comments
	Haringey Council			
1.	Para 2.2 – I recommend that Haringey Council should consider adopting the policy that they will only use RIPA powers to acquire communications data during the course of its business.	Agreed	Implemented. RIPA Policy updated to confirm the adoption of this recommendation.	Updated policy circulated to all authorising officers and included on Harinet October 2007
	Applications			
2.	Para 4.2 – Recommend that Haringey Council adopt the new application form as this will streamline the process considerably and will address some current omissions in the SPoC process.	Agreed	Implemented. New form circulated to all relevant officers following the inspection visit and incorporated into updated RIPA procedures.	
	SPoC Arrangements			
3.	Para 4.5 – The SPoC within the Trading Standards Team needs to ensure it is achieving a fairly good level of compliance and in the future we would recommend that if another department, such as Environmental Crime Services, needs to acquire communications data, that they use the SPoC within the Trading Standards Team.	Partially Agreed	The Council will utilise the central record (outlined in the response to recommendation 4) as the means to manage the process.	The Council will continue to manage the applications for communications data using the most appropriate officers and authorising officers who will be able to complete the required forms in accordance with the

APPENDIX B
INTERCEPTION OF COMMUNICATIONS COMMISSIONER'S OFFICE – INPSECTION VISIT AND ACTION PLAN

No	Action Point	Agreed	Progress	Comments
				<p>legislation. It is considered appropriate that two officers are appropriately trained in the SPoC requirements to provide and ensure continuity of cover in case of absence or urgency. The Enforcement Division will continue to act as lead department for the SPoC.</p>
4.	<p>Para 4.6 – Recommend that the Council maintains a central record (preferably on a spreadsheet) to help manage the system as to make it more easy to provide the records and statistics to the Commissioner as outlined in the Code.</p>	Agreed	<p>Implemented. A central record has been created and made accessible to all relevant staff to allow for completion of all necessary records and returns</p>	
5.	<p>Para 4.7 – Recommend that the SPoC applies the standard URN configuration that has developed in the majority of SpoCs. This should make it easier for the Council to keep track</p>	Agreed	<p>Implemented. Suggested URN of HARLBC/1/07 (as</p>	Imple

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INTERCEPTION OF COMMUNICATIONS COMMISSIONER'S OFFICE – INPSECTION VISIT AND ACTION PLAN

No	Action Point	Agreed	Progress	Comments
	of applications which have more than one notice issued from them.		e.g. the first application for 2007/08) and HARLBC/1/07/N1 (for e.g. first notice from the first application) adopted.	
6.	Para 4.9 – Recommend that the AO should maintain a SPoC log sheet for each application to ensure there is an audit trail of all the actions taken by the AO from the start to the end of the process.	Agreed	Implemented. The Council will utilise the central record (outlined in the response to recommendation 4) as the means to manage the process.	
7.	Para 4.10 – The SPoC report is included within the new application to ensure there is an audit trail of all the actions taken by the AO from the start to the end of the process.	Agreed	Implemented. New form circulated to all relevant officers following the inspection visit and incorporated into updated RIPA procedures.	
8.	Para 4.11 – Recommend that AO should serve any Notices on the CSP and the data should be disclosed back to the SPoC. It	Agreed	Implemented. Procedures	

APPENDIX B
INTERCEPTION OF COMMUNICATIONS COMMISSIONER'S OFFICE – INPSECTION VISIT AND ACTION PLAN

No	Action Point	Agreed	Progress	Comments
	is good practice for the SPoC to then hold the original or 'gold copy' of the data securely and the SPoC should forward a copy to the applicant. All these actions should be recorded on the SPoC log sheet.		amended to ensure compliance with the recommendation.	
	Designated Persons Approvals			
9.	Para 4.13 – In the event of the DPs becoming directly involved in an operation I recommend that their involvement in the investigation and their justification for undertaking the role of the designated person must be explicit in their written considerations or alternatively the application could be passed to another DP for approval.	Agreed	To be enacted if the designated person were to become involved in any investigation.	This situation has not arisen to date – both potential DP's are sufficiently independent of the applications which may require their authorisation, but this point will be taken into consideration when the need arises.
10.	Para 4.14 – Recommend that the DPs ensure that they sign and date their approval of the application form and any S22(4) notices in order to comply with the draft Code of Practice. If relevant the time of the approval and issuing of notices should also be recorded. Omission of this information constitutes an error.	Agreed	Implemented. To be applied to all application forms and S22(4) notices following the inspection	
11.	Para 4.16 – IOCCO recommends that the DP should tailor their comments to the individual applications as this is the best means of demonstrating that they have been properly considered.	Agreed	N/A – already in place.	Haringey does not use standard wording or pre-populated forms. All applications are

APPENDIX B
INTERCEPTION OF COMMUNICATIONS COMMISSIONER'S OFFICE – INPSECTION VISIT AND ACTION PLAN

No	Action Point	Agreed	Progress	Comments
				completed according to the requirements of the investigation.
	Notices			
12.	Para 4.18 – Recommended that the Council adopts the new Home Office template for the Notice. The AO should also ensure that the DP has recorded the date of issue (and where appropriate the time) on any S22 (4) notices before they are served on the CSP.	Agreed	Implemented. See response to recommendation 2.	
	Content of Applications			
13.	Para 5.7 – Recommend that the SPoC should follow the guidance outlined in this section of the report in the future when vetting applications and should provide advice to applicants.	Agreed	Implemented. See response to recommendation 2.	
	Training of public authority staff			
14.	Para 7.3 – The information at 1.8 in the local guidance which refers to S22 (4) Authorisations should be amended due to the fact that the Council is only acquiring data via Notices. In the same regards, the references to the urgent oral process at 1.12 are not relevant to the work of the Council. There will be a requirement to amend the guidance to include advice for the applicants and DPs in relation to the new application form and how it should be completed. This would also provide an opportunity to bring all departments who could benefit from the use of the powers together and promote appropriate use of this valuable investigative aide.	Agreed	Implemented. Guidance notes amended to comply with the recommendation.	

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No	Action Point	Agreed	Progress	Comments
15.	Para 7.4 – The Council should acquire the latest version of the draft Code of Practice, ensure that AOs have possession of a copy and, if possible, provide a link from guidance notes to it.	Agreed	Implemented. Code of Practice obtained and circulated.	
	Error Reporting			
16.	Para 8.1 – Request that the error found during the inspection is reported to the Commissioner using the error reporting form.	Agreed	Implemented. Error reported to the Commissioner during the inspection visit.	Revised procedures put in place following the inspection to ensure all data is captured and appropriately reported.