



Chief
Surveillance
Commissioner

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Dear Mr. Swaine,

18 December 2015

Covert Surveillance

His Honour Brian Barker CBE, QC, an Assistant Surveillance Commissioner carried out an inspection into the arrangements made by the Council to ensure compliance with the RIPA legislative arrangements I enclose a copy of his report to me dated 23 November which I have studied and endorse.

I note the Strategic Alliance formed by the two councils in 2011, followed by new arrangements for staffing and indeed for the accommodation of the offices. As it happens the last inspection at North East Derbyshire is now well over three years ago, whereas Bolsover was inspected very recently.

I regard this as a positive report, not merely because the recommendations made in the earlier reports can now be discharged, but because of the positive attitude adopted to these provisions by those responsible for the implementation. Mrs Sternberg and Mr Kane should be commended. The new recommendations imply no criticism of either.

The new draft Policy and Procedure document should be reconsidered in the light of the detailed observations in paragraph 15. The arrangements for ensuring that councillors are kept up-to-date with RIPA activity should be made more intense by adopting the suggestion discussed during the inspection for four monthly reports to be made. Beyond these recommendations perhaps it is worth highlighting paragraph 17 with the reference to the use of social media. This particular area may yet create problems, and it is therefore sensible to keep developments in mind when intrusive surveillance, using social media, may inadvertently occur.

Yours sincerely,

Clare Kington-Dowle

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PP The Rt Hon Lord Judge

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OFFICE OF SURVEILLANCE COMMISSIONERS
INSPECTION REPORT

North East Derbyshire and Bolsover District Council

17th November 2015

**Assistant Surveillance Commissioner:
HH Brian Barker.**

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Chief Surveillance Commissioner,
Office of Surveillance Commissioners,
PO Box 29105
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November 23rd, 2015.

INSPECTION REPORT:

NORTH EAST DERBYSHIRE [NED] DISTRICT COUNCIL & BOLSOVER DISTRICT COUNCIL

Inspection November 17TH 2015

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

North East Derbyshire [NED] and Bolsover District Councils:

1. The two adjacent District Councils cover an area of approximately 160 square mile with a mixed urban and rural population of around 175, 000. The area has a rich mining and industrial heritage, and regeneration has been a priority since the 1980's.
2. The Councils formed a Strategic Alliance in 2011 which resulted in a replacement three tier management structure consisting of a single chief executive, two joint executive directors and ten joint assistant directors covering customer services, leisure, HR and payroll economic growth, planning and environmental health, governance, finance and revenues and benefits, streetscene, community safety and housing, and finally property and estates. Each of these officers is jointly employed by the two authorities. The new structure has led to savings and reductions, as well as greater flexibility in the use of the separate workforces.
3. NED moved to new headquarters at Mill Lane, Wingerworth S42 6NG this year, where I conducted the inspection. Bolsover District Council moved to new and more efficient premises in Clowne in 2013, and they also maintain contact centres in the four main settlements. Each authority employs the equivalent of about 450 full time staff.
4. The Strategic Alliance Management Team [SAMT] is monitoring the Government's policy on combined authorities and evolution plans which may well affect future policies; and each Council is a non constituent

member of both the Sheffield and Derbyshire Regional Combined Authorities to maintain access to regional economic development funds.

5. NED was last inspected in June 2012 by Mr. Graham White, Surveillance Inspector; and Bolsover in July 2015 by Mr. Neil Smart, Surveillance Inspector. There were a few, relatively minor, recommendations in both cases as to tightening in some areas of the policy and procedure documents and in improving the narrative of some authorizations. Subsequently both authorities produced revised policy documents, both approved in the summer of 2013, taking into account the *Protection of Freedoms Act 2012* and *RIP (Directed Surveillance and CHIS)(Amendment) Order 2012, SI 2012/1500*; and more importantly have recently produced a new document which also takes into account the 2015 training. Given the steps that have been taken, the recommendations in both cases can be considered to be discharged.
6. The policy of the SAMT is to focus on overt surveillance and deterrence, and only the sparing use of the *RIPA* provisions where necessary to deal with 'over the threshold' crime. There have been no applications since the last inspections. There had been some assistance given to the DWP activities in recent years when requested; but due to redeployment this activity is no longer followed.

Inspection:

7. Having arrived quite late due to a disrupted mainline train service, I was welcomed and forgiven by the senior solicitor Mrs. Sarah Sternberg and the governance manager Mr. Matthew Kane. The SAMT is fortunate to have two such experienced and knowledgeable officers
8. We discussed general *RIPA* issues and the changes brought about by the 2012 legislation and the consequent unlikely use of *Covert Human Intelligence Sources*. Also considered was the impact of the Alliance and the approach to *RIPA* by the officers of both Councils, including awareness of the widespread use of social media sites and the dangers of unauthorized, enthusiastic investigatory use. We then took time to consider the draft new joint Policy document, part of the greater scheme of reorganization and due to be placed before the Strategic Alliance Joint Committee on December 8th. The final version due to be approved by the Councils' executives in January.
9. We were later joined by Mr. Dan Swaine, the new Chief Executive. He has only been in post since October and has had *RIPA* monitoring experience from his previous positions, and impresses as someone who is anxious to maintain throughout the SAMT a proper level of understanding and readiness as well as an appreciation by his officers of following the *RIPA* provisions to provide an 'insurance policy.'

Examination of Central Record

10. The central records were available but not produced as there had been no additions since the last inspections, but are kept in recognized, complying computerized as well as printed form. The suggestion that there should be a single record for any future entries was taken up.

RIPA Management Structure

11. Sarah Sternberg as Joint Director, senior solicitor and Head of the legal and governance group, is the long standing RIPA Senior Responsible Officer and Monitoring Officer; and Matthew Kane is her deputy. It is understood that all prospective applications come through her.
12. The raising of *RIPA* awareness was also considered. Following the 2012 legislation, potential applicants and the authorizing officers were additionally advised through the Councils' intranet systems of the requirement for judicial approval and the new threshold. Each Council has a dedicated *RIPA* page on its system containing the *RIPA* policy, forms, training slides and the latest Home Office Guidance. I was given a demonstration of both pages and impressed with the ease of access and clarity of navigation.

Training:

13. Training, using prepared slides which were included in my briefing pack, took place for the authorizing officers and some other departmental leaders in January 2015 following the receipt of the Home Office codes of practice. The topics were satisfactorily comprehensive and included references to social media. Three further briefing took place on November, which were well attended by potential applicants from both Councils including representatives from environmental health, licensing, streetscene and planning.
14. Mrs. Sternberg and Mr. Kane were fully alive to the necessity of spreading the message through regular training and the use of the intranets, and took into consideration the possibility of the next training session coming from an outside professional organization to give perspective.

Policy and Procedures:

- 15.** The new draft Policy and Procedure Document was well designed and comprehensive. Some amendments were discussed with Mrs. Sternberg and Mr. Kane which may further improve the publication and these include:
- The addition of the name and contact number for the Monitoring Officer in the introduction
 - The addition of flow charts at an early stage in the document for directed surveillance, *CHIS* and application to the Justice of the Peace
 - A reference in the list of available documents on the intranet to the latest OSC Procedures and Guidance
 - After 'Covert Directed Surveillance' [4.4] add a section as to use of Social Networking Sites and the Internet to the effect: "Use of the internet to gather information may amount to directed surveillance and where an officer intends to use the internet consideration must be given to possible infringement of Article 8 privacy rights and collateral intrusion and if so is it necessary and proportionate to meet the objectives of the specific case. Advice should be sought.
 - Add to the CCTV section [6] further guidance on directed surveillance that: "the system cannot be used without the prior production of an authorisation and the authorisations should be retained"
 - Add to the list of Authorising Officers their names and contact numbers
 - In the 'Authorisation' section [8.2] amend the exhortation that "All uses of RIPA should be referred to the Monitoring Officer for preliminary advice" to start "Any potential use of RIPA..."
 - Add to 'Approval by Magistrates Courts': "Generally the applicant should be accompanied to Court by the authorising officer and a member of the legal department"
 - In relation to the Central Records [9.2] kept by both Authorities, consideration be given to maintaining a single, combined record for any future use.

See recommendation.

CHIS

- 16.** Although the use of a Covert Human Intelligence Source has not been considered by either Authority for some considerable time, some attention should continue to be directed to this area and the satisfaction

of statutory requirements of *CHIS* management, as situations may change. One example being should either Authority decide to investigate social networking sites.

Social Media:

17. The recent 2015 training alerted the recipients as to the potential pitfalls of over enthusiastic use of internet 'research' by officers, and the use of the two internal intranet systems to highlight from time to time the possible problems and the necessity to take advice was discussed so as to highlight the 'rule of thumb' that authorisation is not required in this area unless there are return visits, and if privacy controls are breached e.g. becoming a Facebook 'friend' then directed surveillance authorisation is required and *CHIS* authorization if any relationship is established.

Authorising Officers:

18. There are three Authorising Officers of appropriate rank: the chief executive and the two joint executive directors Mr. Paul Hackett and Mr. Bryan Mason. Each has had previous experience of *RIPA* authorizing and were familiar with expected standards.

Protection of Freedoms Act 2012 and RIP (Directed Surveillance and CHIS)(Amendment) Order 2012, SI 2012/1500.

19. The new draft Policy and Procedure document gives appropriate guidance to potential applicants as to the crime threshold.

Councillors

20. The importance of keeping the elected members aware of both the 'up to date Policy' and any activity under it, was appreciated. A system of annual reporting to the Standards Committees was in place. The advisability of extending the process on perhaps a four monthly basis to include reporting inactivity was discussed, as it also keeps the subject profile somewhat higher than it otherwise would have been.

See recommendation.

CCTV

21. NED does not operate a public town centre CCTV control centre, but does operate rapid deployment portable devices with clear signage when required to deal with anti-social complaints or in some cases in order to disprove perceived problems. This is a utility of last resort, although the machines are used quite frequently
22. I met Mrs. Faye Green the Community Safety Manager and P.C. Nicky Atkinson who explained the range of usage of these devices and the strict procedures and record keeping that were used to record use and continuity so as to be able to present suitable evidence when required.
23. Bolsover District Council have a secure CCTV control centre in Chesterfield, although this is operated by Chesterfield Borough Council. Only Bolsover officers who are authorized may view footage on completion of a 2011 form, and police officers must produce appropriate authorization before being allowed access, and a register is maintained. Although a view was offered, I was not able to accept due to extensive mainline disruption.

Conclusions

24. The creation of the Strategic Alliance and a new management structure must have generated considerable problems, and the burden will have been increased by the effects of austerity and the move of each authority to new premises. 2015 has also seen the quite large turnover of councilors and the appointment very recently of new Chief Executive from outside the area.
25. With such an era of change, it would not be surprising if consideration of *RIPA* procedures had taken a back seat; so it is encouraging to see that effective training has recently been given; and that a new, updated Policy and Procedures document is about to be presented to each Council.
26. Mrs. Sternberg, as Monitoring Officer, is clearly well informed and efficient; and further has the advantage of experienced support from Mr. Kane. Both of whom takes their responsibilities seriously.
27. Although neither Authority has undertaken an authorisation since the last inspection, and it is not possible to assess the effectiveness of the procedures; the system in place and the awareness of the responsible officers give confidence that any future application under *RIPA* would be compliant and the end product survive any criticism. In consequence the recommendations made are limited.
28. Finally, I would like to thank Mr. Kane for the efficient organization of my inspection and the other members of the staff who made themselves available and gave me assistance.

Recommendations

- 29.** i. Amend the draft Policy and Procedures document where appropriate
- ii. Ensure continued levels of awareness of potential and pitfalls of *RIPA* to Councillors through regular reporting; and to officers and staff through the active use of the internal internets.

**His Honour Brian Barker, CBE, Q.C.
Assistant Surveillance Commissioner.**