



Chief
Surveillance
Commissioner



Office of Surveillance
Commissioners

Maxwell

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28th October 2010

Dear Mr. Nuttall,



Covert Surveillance

On 7th October 2010, an Assistant Surveillance Commissioner, HH Norman Jones QC, accompanied by 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 Mr Jones's report which I endorse. I am pleased to see that you have rapidly adopted the modifications in the revised Codes of Practice and that your RIPA performance presents a positive picture. The quality and dedication of your officers involved with RIPA authorisation are commendable. There are some weaknesses in documentation which can readily be addressed if the recommendations are followed.

These are that a Central Record spreadsheet, compliant with the Codes of Practice, be created, that up to date Home Office forms be used, that weaknesses in authorisations be addressed by more regular training and robust oversight and quality control and that your Policy Statement be amended as indicated in paras 24 and 25 of the report.

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

One of the main functions of review is to enable public authorities to improve their understanding and conduct of covert activities. I hope your Council finds this process constructive. Please let this Office know if it can help at any time.

*Yours sincerely,
Christy Ann Rose*

Mr Mike Nuttall
Chief Executive
South Ribble Borough Council
Civic Centre
West Paddock
Leyland
PR 25 1DH

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OFFICE OF SURVEILLANCE COMMISSIONERS

INSPECTION REPORT

SOUTH RIBBLE BOROUGH COUNCIL

7 October 2010

**Assistant Surveillance Commissioner:
His Honour Norman Jones**

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

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

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

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OSC/INSP/075

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

11th. October 2010.

INSPECTION REPORT SOUTH RIBBLE BOROUGH COUNCIL

Inspection 7th. October 2010.

Inspector His Honour Norman Jones, QC.
Accompanied by
Sir David Clarke
Assistant Commissioners

South Ribble Borough Council.

1. South Ribble Borough Council serves a mixed urban and rural population of 110,000 in West Central Lancashire. The principal townships are Leyland, Bamber Bridge, Penwortham, Samlesbury, Longton and Hutton.
2. The Corporate Management structure is headed by the Chief Executive, Mr. Mike Nuttall who has only recently taken post having previously been the Deputy Chief Executive. He is supported by a Deputy Chief Executive (post vacant at present) and five Directors. They in turn lead teams of Heads of Services.
3. Mrs. Maureen Wood, Director of Corporate Governance, has been appointed as *RIPA* Senior Responsible Officer (SRO). The *de facto* *RIPA* Monitoring Officer is Mr. David Whelan, Legal Services Manager, who, for a number of years, has been the officer with prime day to day responsibility for *RIPA*.
4. South Ribble DC was last inspected for the OSC by His Honour the late Lord Colville of Culross on the 5th. December 2007.
5. The Council engages in very sparing covert surveillance having granted only two authorisations since the last inspection. This represents a substantial reduction on previous numbers due largely to a realisation that *RIPA* authorisations were being granted for investigations which did not require them. These included noise pollution investigations when

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- warning letters had previously been sent. In addition Benefit Fraud investigators now rely on overt means to pursue their investigations.
6. Both authorisations were concerned with licensing and the supply of alcohol to under age purchasers. They did not concern the authorisation of *Covert Human Intelligence Sources (CHIS)*, the acquisition of *confidential information, self authorisation*, or the use of the *urgency* provisions. Both were justified.
 7. The Council lays emphasis on its policy to avoid using covert surveillance unless it is the last resort.
 8. The Council Offices are situated at The Civic Centre, West Paddock, Leyland, PR25 1DH.

Inspection.

9. The Inspection was welcomed by Mr. Whelan who had made the arrangements for which the Inspection is most grateful. He later introduced Ms. Maureen Wood and Ms. Denise Johnson, Director of Regeneration and Healthy Communities. All officers impressed the Inspection with their enthusiastic and well informed participation.
10. The inspection commenced with an examination of the retained applications/authorisations, reviews, renewals and cancellations. Thereafter it was conducted by means of interview and discussion with the officers concerning RIPA issues. These included issues arising from the examination of the records, the revised *Codes of Practice for Covert Surveillance and Property Interference* and for *Covert Human Intelligence Sources (CHIS)*, action taken on past recommendations, RIPA Management, authorising officers, training and policy and procedures.

Examination of Records.

11. South Ribble BC does not maintain a Central record of Authorisations matrix in a single document. There is an argument for saying that with the minimal degree of authorisation undertaken there is a low requirement for such. However such a document does provide an excellent tool for exercising oversight on the RIPA process within the Council, as well as providing a tool to assist in any inspection process. Such a document can easily be established in spreadsheet format, and once in operation, enables the SRO and the RIPA Monitoring Officer to exercise immediate oversight at the touch of a button. It should reflect the requirements set out in the *Code of Practice for Covert Surveillance and Property Interference (8.1)* together with a record of review dates set and undertaken.

See recommendation

12. Both authorisations were examined. It was noticeable that they were presented on an old style of form. This did not have the advantage of the wide number of prompts included in the boxes in the most recent Home

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Office forms, and also failed to have a box able to contain the necessary detail of what was being authorised by the Authorising officer. However, the authorisation box which recorded any consideration of *necessity* and *proportionality* was superior to the Home Office forms in that it contained prompts inviting the authorising officer to consider each of the three elements of proportionality. Nevertheless it would be advisable for the Council to adopt the most recent Home Office forms, adding if it wishes the prompts presently contained in its own form.

See recommendation

13. Overall the applications and authorisations were of an acceptable standard. Good detail of what was required to be authorised and why was to be found in the applications. Collateral intrusion was well considered. *Necessity* was not considered in terms of why the use of covert surveillance was necessary in the investigation, and this needs to be expanded in the future. Both applications and authorisations dealt well with *proportionality* considering it under the three elements of proportional to the mischief investigated, to intrusion on the target and others and whether any other overt means were available. There was a tendency to use the term "unlikely" to describe the possible acquisition of *confidential information*. Care should be taken to avoid such terminology as it can indicate a likelihood which would require Chief Executive's authorisation. Review dates were set and achieved and cancellations occurred promptly. One cancellation bore a different URN to the authorisation it supported. Authorisations were typed. It is better practice to handwrite them since that avoids the possibility of allegations being made that the authorising officer did not draft them, but merely "tick boxed" them, and that authorisations were amended after they were granted.
14. The principal weakness arose from the lack of detail in the authorisations of what was being authorised. This is unlikely to have arisen had the current Home Office forms been in use.
15. These weaknesses are somewhat indicative of a need to exercise more robust oversight and quality control on the process.

See recommendation

Revised Codes of Practice.

16. It was reassuring to note that consideration had been given to the management changes proposed by the revised *Codes of Practice* and that the position of Senior Responsible Officer (SRO) will be taken by Ms. Wood. She has considerable previous experience of *RIPA* having been an authorising officer. She is aware of her duties as SRO which include responsibility for the integrity of the *RIPA* process within the Council; for compliance with *RIPA* and its regulatory framework; for engagement with the Commissioners and Inspectors when they conduct inspections, and overseeing the implementation of any recommendations made by the OSC.

17. In addition a decision had been taken to report twice yearly to the Governance Committee with regard to *RIPA* activity within the Council. This will now be extended to four times. Annually a fuller report will be undertaken to provide elected members with the necessary information to undertake their responsibilities for formulating a *RIPA* policy and ensuring that it is fit for purpose. Councillors should not be concerned with individual authorisations or with any sensitive material which may be included within them.

Past Recommendations.

18. The last OSC Inspection Report made no recommendations.

***RIPA* Management**

19. Whilst Ms. Wood has overall responsibility for *RIPA* within the Council, Mr. Whelan has day to day control. In discussion it was clear that he is an officer with a wide knowledge of *RIPA* issues, and a determination that South Ribble BC will achieve high standards. Indeed the fact that the *RIPA* performance of the Council has been praised in each of the previous Inspection Reports is in no small way due to his diligence. He acts as the *RIPA* Monitoring Officer and it may be advisable that he is given that title. His present responsibilities include the keeping and collating of the applications/authorisations, reviews, renewals and cancellations; the monitoring of the authorisations and other documents for quality control; organising training and ensuring that a good level of *RIPA* awareness is maintained throughout the Council. To this should be added the maintenance of a Central Record of Authorisations matrix.

Authorising Officers.

20. The Council has three approved authorising officers together with the Chief Executive and the SRO. They are sufficient for the *RIPA* needs of the Council. Each is of a high level of seniority and each has received *RIPA* training.

Training

21. Mr. Whelan conducted an internal training session for officers engaged in *RIPA* in November 2007. In January 2008 a further training session was conducted by an external trainer. Since that time there has been no organised training, but a further internal training session is provisionally arranged for November of this year.
22. Mr. Whelan has a "PowerPoint" set of slides which are used during his training sessions. The Inspection was provided with a copy which illustrates the effort he has put into this area of his work.
23. It is easy to understand that in a Council with such a low resort to covert surveillance *RIPA* training may not be high on the agenda. However it is necessary that those engaged are kept fully up to date and it would be

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advisable for training sessions to be conducted more regularly than is the present case.

See recommendation

Policy and Procedures

24. The Council *Policy Statement* on RIPA is a thorough, readable and useful guide for RIPA practice. Amendments have already been undertaken in a revision dated July 2010 which are designed to embrace the provisions of the revised *Codes of Practice for Covert Surveillance and Property Interference* and for *Covert Human Intelligence Sources (CHIS)*. However a number of references and notes still relate to the previous *Codes of Practice* and require to be amended. The policy has attached to it two useful and succinct documents outlining authorisation procedures for both *directed surveillance* and *CHIS*.
25. Some further amendments were discussed:
- Include under **Proportionality** an outline of the three elements requiring consideration. This should be reflected also in the authorisation procedures documents.
 - Remove references to the Police Act 1997 when defining *confidential information* and insert references to the *Code of Practice for Covert Surveillance and Property Interference* (4.1).
 - Ensure that the effective duration periods recorded for authorisations are correct.
 - The paragraphs outlining the requirements of management of a *CHIS* by the appointment of a controller and a handler should also include the requirement for a record keeper. They should also be reflected in the *CHIS* authorisation procedures document. Records should be kept in accordance with the *Code of Practice for CHIS* and the Regulation of Investigatory Powers (Source Records) Regulations 2000 (SI 2000/2725)
 - Insert a section outlining the responsibilities of the SRO and the RIPA Monitoring Officer. The latter should include: (a) maintaining the Central Record of Authorisations and collating the original applications/authorisations, reviews, renewals and cancellations; (b) oversight of submitted RIPA documentation; (c) organising a RIPA training programme; and (d) raising RIPA awareness within the Council.
 - Include in the paragraph defining *confidential material* that only the Chief Executive or (in his absence) his deputy may authorise.

(See Recommendation)

CCTV

26. The CCTV system in the South Ribble area is owned by the Community Partnership of which South Ribble BC, the police and other public authorities are partners. A CCTV protocol exists which controls the usage. Three control stations exist, two in police stations and one in South Ribble

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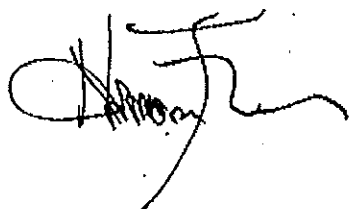
Council Offices, though the latter is not manned with any great frequency. To all intents and purposes the system's management resides with the police.

Conclusions

27. It was encouraging to note that South Ribble DC has rapidly adopted the modifications introduced by the revised *Codes of Practice for Covert Surveillance and Property Interference* and for *Covert Human Intelligence Sources (CHIS)*. The introduction of a senior officer as SRO with specific responsibilities is welcome.
28. South Ribble DC continues to present a very positive picture in relation to its *RIPA* performance. Whilst some weaknesses were apparent in the authorisations, generally they presented as of a reasonable quality. The weaknesses need to be addressed, and Ms. Wood and Mr. Whelan are determined to do so. The adoption of the most recent Home Office forms will assist in this regard.
29. The factor which most impresses is the quality and determination of the officers concerned with *RIPA*. All authorising officers are among the senior ranks of the Council, and with the positive encouragement of the SRO and the *RIPA* Monitoring Officer high standards can easily be achieved.

Recommendations.

30.
 - I. Create a Central Record of Authorisations spreadsheet reflecting the requirements of the *Codes of Practice*. (paragraph 11).
 - II. Adopt the most recent Home Office forms. (paragraph 12).
 - III. Address the identified weaknesses in the authorisations by more regular training and robust oversight and quality control. (paragraphs 13 to 15 and 21 to 23).
 - IV. Amend the Council's *Policy Statement on RIPA*. (paragraphs 24 and 25).



**His Honour Norman Jones, QC,
Assistant Surveillance Commissioner.**