



Investigatory Powers
Commissioner's Office

IPCO/INSP/075

The Rt. Hon. Sir Adrian Fulford

Investigatory Powers Commissioner
Investigatory Powers Commissioner's Office
PO Box 29105
London
SW1V 1ZU

13 October 2017

IPCO INSPECTION – LONDON BOROUGH OF ENFIELD

1. Date of inspection

Wednesday 27th September 2017

2. Inspector

Gráinne Athorn

3. Introduction

3.1 The London Borough of Enfield is situated in North Middlesex and is the furthest north of London Boroughs. It contains the town of Enfield, and covers the areas of Cockfosters and Edmonton.

3.2 The present Chief Executive Ian Davis is new to the role having only been appointed during 2017. His previous role was also within Enfield Council. Jayne Middleton-Albooye is Acting Assistant Director of Legal Services and Corporate Governance which includes the function of Monitoring Officer and Senior Responsible Officer for RIPA (Regulation of Investigatory Powers Act 2000) matters. Her substantive role is Head of Legal which includes Authorising Officer responsibilities. Joe Whimpenny is Enfield's RIPA Gatekeeper which he performs alongside his day job as a Paralegal in the Legal Services Department.

3.3 The grade prescribed by SI 2010/521 for authorisation under RIPA for directed surveillance (DS) and covert human intelligence sources (CHIS) within local government is 'Director, Head of Service, Service Manager or equivalent'. There are three nominated Authorising Officers, Mrs Middleton-Albooye, Sue McDaid - Head of Regulatory Standards and Chief Executive Ian Davis.

3.4 Since the last inspection in June 2013 there have been three authorised uses of RIPA powers, two directed surveillance operations and a CHIS for a Test Purchase. All were in the years 2014 and 2015 since which there has been no further covert activity.

3.5 The address for correspondence is Civic Offices, Silver Street, Enfield, EN1 3XA.

4. Inspection approach

4.1 The purpose of the inspection was to examine policies, procedures and operations in respect of directed surveillance and CHIS under the provisions of Part II of RIPA.

4.2 The Inspection was facilitated by Jayne Middleton-Albooye in her capacity as SRO and commenced with a joint briefing with RIPA Co-ordinator Joe Whimpenny during which they reviewed work undertaken since the last inspection in 2013.

4.3 This was followed by discussions with AO Sue McDaid - Head of Regulatory Services, Darren Woods - Manager of the Enfield Public Safety Centre, Bob Cundick - Counter Fraud Manager and Heena Kanani - Principal Trading Standards Officer.

4.4 The Inspection concluded with a short debrief with the SRO and Chief Executive.

5. Review of progress on recommendations

5.1 In his inspection of June 2013 Surveillance Inspector Andrew Mackian made four recommendations:

5.2 Recommendation 1 – *Remove the term 'back-up' officer from policy document.*

5.3 Since the last Inspection there have been substantial changes in personnel meaning the role of SRO has been reallocated and a RIPA Co-ordinator recruited. The RIPA procedure has been refreshed to no longer contain the term referred to above.

Recommendation Discharged

5.4 Recommendation 2 – *Improve quality assurance in terms of the setting of effective time periods, management of reviews and level of detail within cancellations.*

5.5 The Legal Services Department, via RIPA Co-ordinator Joe Whimpenny is the nominated lead for RIPA matters within Enfield Council and controls the central records of authorisation. Any member of staff seeking to use RIPA powers must contact the RIPA Co-ordinator to obtain a unique reference number and is also responsible for providing notification when an authorisation has been granted. Quality assurance functions are shared between the SRO and RIPA Co-ordinator, depending upon the complexity of the proposed activity.

5.6 Each AO is responsible for ensuring that review and renewal dates are complied with but given the demand of their daily roles, it was suggested that the RIPA Co-ordinator is best placed to ensure that such dates are checked and complied with, with reference to the SRO should any failure emerge.

Recommendation Discharged

5.7 Recommendation 3 – *Improved and intrusive oversight by Legal Services for all future CHIS applications.*

5.8 Since the last Inspection one authorisation for a CHIS Test Purchase has been completed. On this occasion oversight functions were managed between the AO and Legal Department. There were some shortcomings with the relevant documentation, most critically the absence of a risk assessment. The SRO provided assurance that any future applications would be the subject of intrusive oversight by Legal Services in line with the refreshed RIPA Procedures.

Recommendation Discharged

5.9 Recommendation 4 – *Operational use of CCTV/ANPR to be assessed by Legal Services to ensure that full consideration has been given to any covert use of the systems and the requirement to comply with the 2000 Act.*

5.10 The London Borough of Enfield owns a CCTV network which is currently operated by a contractor, albeit managed by a small team of Council appointed staff. All cameras are overt and appropriately signposted, and subject to oversight by the Surveillance Camera Commissioner. All related procedures and operating practices have been reviewed by the Legal Department and reflect best practice, in terms of permitted access to police and other law enforcement officials for covert purposes.

Recommendation Discharged

6. Policies and procedures

- 6.1 A comprehensive Covert Surveillance Procedure document provides all Council staff with guidance on the principals contained within Part II of RIPA and how they may be applied to investigations. The Procedure has been regularly updated and revised with the most recent iteration being passed by Council Members in July 2017.
- 6.2 An additional section relating to the use of the internet during covert investigations has been added covering paragraphs 3.17 to 3.20 and is an appropriate reflection of the advice given by the (then) Surveillance Commissioners.
- 6.3 Discussions during the Inspection reflected some uncertainty as to the nature and extent of online surveillance activity that officers from the LB of Enfield are permitted or enabled to perform by their managers. It is for the Council to decide if it wishes to give investigators the freedom to operate on line and if so, to agree rules for such activity.
- 6.4 To ensure that where online monitoring or research is required it is managed with consideration for the respect for privacy rights as required by RIPA, it is **recommended that the Covert Surveillance Procedures document is amended to introduce management oversight of online social media monitoring or recording requiring a directed surveillance authorisation and where applicable, controls for the use of online pseudonyms.**

7. Related training

- 7.1 Delivery of refresher training to relevant Enfield staff took place prior to the last Inspection in 2013. Both nominated AOs have been trained but due to the appointment of a new Chef Executive, there has not been the opportunity to ensure he has been trained in relation to his additional RIPA responsibilities (albeit as an experienced Trading Standards Officer he has a substantial awareness of relevant statutes).
- 7.2 RIPA refresher training need not be delivered by an external provider, an in house bespoke package covering the main areas of interest and development would be sufficient to keep investigators aware of the most recent developments, particularly the monitoring of social media and the internet for investigative purposes. It was acknowledged during the course of the Inspection that some internal training is required and as such should be delivered prior to the end of the financial year.

8. Significant issues arising

Central Record of Authorisations

- 8.1 The Central Record of Authorisations is maintained by the RIPA Coordinator and contains details of past authorisations including the latest from 2014/5, as well as original copies of authorisation documentation.

Directed Surveillance

- 8.2 Since the last Inspection two authorisations for Directed Surveillance have been granted.

- 8.3 The first related to an investigation into arson taking place in a specific location of council owned accommodation – URN 1-CSU-1-14/DS. The application requested the deployment of three covert cameras in communal areas of the building concerned.
- 8.4 The overall quality of the application was poor with very little detail given as to why this was considered to be the best tactic and how the cameras were to be used to obtain the evidence required and/or identify the offenders. Furthermore, the application failed to identify a robust plan to minimise the inevitable collateral intrusion into the residents of the property, while the proportionality case did not articulate why this intrusion of privacy was a balanced response to the events in question.
- 8.5 The Authorising Officer (AO) helpfully provided far more context, addressing the proportionality of the proposed action but the case was sadly further let down by the absence of cancellation documentation.
- 8.6 In contrast URN 01-1A-01-15/DS was a far more comprehensive and well articulated document, explaining the requirement to investigate the misuse of council waste services to perpetrate a suspected fraud. The application explained in a good degree of detail why the proposed surveillance was required, with the focus on confirming or refuting suspicions about the persons thought to be involved.
- 8.7 Despite the much improved quality of the application and the correct review and expiry dates being applied by the AO, it was clear that the cancellation was submitted only because the authorisation was due to expire, without a review in the interim.
- 8.8 It is clear from discussions with the SRO that there is a desire to improve the quality of the surveillance authorisation process, and there is evidence (in terms of the improved quality of the later submission) that work has already taken place to assure applications. To achieve a higher degree of compliance it will be necessary for the RIPA Co-ordinator to control the submission of documentation within agreed timescales with the full management support of the SRO in the event of non compliance.
- 8.9 It should also be noted that the surveillance application form still contains reference to urgent oral authorisations. Powers to grant these were removed by the Protection of Freedoms Act 2012 and thus the forms should be amended.

CHIS

- 8.10 A single CHIS authorisation (URN 02-TS-01-14/CHIS) was granted to facilitate a Test Purchase by Trading Standards officers of a vehicle believed to be for sale while displaying fraudulent mileage. The required conduct was for the CHIS to make contact with the purported owner to arrange a potential sale accompanied by a police officer, albeit the proportionality box was not completed, leaving the AO with little information upon which to base their considerations.

- 8.11 Fortunately the authorisation provided a good explanation as to the AO's considerations on necessity and proportionality, sufficient to justify the proposed Use and Conduct. However the absence of a Risk Assessment meant the AO was unable to give any direction as to the safety and welfare of the source. To do so is a requirement of the Covert Human Intelligence Source Code of Practice and therefore, **it is recommended that prior to the authorisation of any CHIS deployment a risk assessment is prepared outlining the risks arising from the source's activity and how the security and welfare of the source is to be protected.**

9. Conclusions

- 9.1 Like other London Boroughs Enfield has undertaken limited covert activity in recent years. Applications submitted in support of what operations were required, were of variable quality, albeit on an improving trajectory.
- 9.2 On a positive note those persons now in the role of SRO and RIPA Co-ordinator demonstrated a good level of understanding of what is required to achieve improved compliance and are committed to doing so. The relevant Procedure document is up to date and provides an excellent guide as to what standards are required by RIPA, and will assist future applications for surveillance or CHIS.
- 9.3 The recommendations within this report are intended to improve working practice to ensure that Enfield Council Staff do not step beyond what the organisation is corporately prepared to allow them to do online, and ensure that where they are required to act, they do so safely. It was reassuring to hear that the new Chief Executive is committed to continuous improvement and will support the action required through the recommendations.
- 9.4 Thanks to Joe Whimpenny for his assistance in arranging and rearranging the Inspection and SRO Jayne Middleton-Albooye.

10 Recommendations

- 10.1 The Covert Surveillance Procedures document is amended to introduce management oversight of online social media monitoring or recording requiring a directed surveillance authorisation and where applicable, controls for the use of online pseudonyms.
- 10.2 Prior to the authorisation of any CHIS deployment a risk assessment is prepared outlining the risks arising from the source's activity and how the security and welfare of the source is to be protected.

Gráinne Athorn
Surveillance Inspector