

IPCO/INSP/075

The Rt. Hon. Sir Adrian Fulford
Investigatory Powers Commissioner
Investigatory Powers Commissioner's Office
PO Box 29105
London SW1V 1ZU

6 April 2018

OSC INSPECTION – WATFORD BOROUGH COUNCIL

1 Date of Inspection

A desktop review of Watford Borough Council was undertaken on Tuesday 27th March 2018.

2 Inspector

Mrs Gráinne Athorn.

3 Introduction

3.1 Watford Borough Council is the local authority for the Watford non-metropolitan district of England. Watford is located in the south-west of Hertfordshire, in the East of England Region.

3.2 The Managing Director continues to be Mr Manny Lewis who is supported by a Deputy Managing Director and a small team of four Heads of Service. The present Senior Responsible Officer for RIPA (Regulation of Investigatory Powers Act 2000) matters is Carol Chen who is also one of five Authorising Officers (not including the Managing Director). There is no nominated RIPA Co-ordinator.

3.3 The address for correspondence is Watford Borough Council, Town Hall, Watford, Hertfordshire, WD17 3EX or by e-mail to the Managing Director Manny.Lewis@watford.gov.uk.

4 Inspection Approach

4.1 The purpose of the inspection was to examine policies, procedures, operations and administration in respect of directed surveillance and covert human intelligence sources (CHIS) under RIPA. The last inspection was undertaken during 2014 by Surveillance Inspector Kevin Davis. In the period since the last Inspection one authorisation for directed surveillance has been granted. Details of this authorisation are contained later within this report.

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- 4.2 This report has been prepared without visiting Watford Borough Council, however to assess the ongoing compliance of the Council, information provided by the SRO has been reviewed which included: a copy of the Council's RIPA and Social Media Policies, internet social media guidance, training records and a copy of the central record of authorisations.

5 Actions Taken on Past Recommendations

- 5.1 In his report of 2014 Surveillance Inspector Kevin Davis made no recommendations.

6 Review of Policies and Procedures

- 6.1 Watford BC maintains a RIPA Policy which sets out how the Council seeks to operate in conjunction with powers to utilise surveillance and CHIS. The document is well written and gives guidance on key themes such as necessity, proportionality and collateral intrusion, and details who are the designated Authorising Officers. The guidance concerning what can and cannot be authorised within RIPA is a particularly helpful item.
- 6.2 Paragraph 9 on page 22 outlines in detail what an Authorising Officer (AO) must record when giving consideration to the use of a Covert Human Intelligence Source (CHIS). To ensure that all relevant material is recorded at the time and authorisation is granted, this section should be altered to highlight the need to identify the RIPA Section 29(5) roles of CHIS Handler and Controller, and must remind AOs that the risk assessment must consider the statutory requirement to assess the risk to the source arising should their role in the investigation be revealed (see CHIS Code of Practice).
- 6.3 The RIPA Policy is complemented by a Social Media Policy which guides Watford staff as to the conduct that they are permitted to conduct online. This is limited to observing open, unprotected information available on social media, be this on a one off basis or a protracted investigation requiring RIPA authorisation. It is helpful that such parameters are drawn so clearly.
- 6.4 The social media policy helpfully highlights that the impact on personal privacy arising from social media enquiries is likely to be limited unless they are on a repeated basis. Specifically paragraph 4.2 reads 'one off visits' or 'infrequent visits spread over time' are unlikely to require a RIPA authorisation. Caution should be taken when judging privacy impact by the time elapsing between searches of social media, where the turnover of information posted by individuals may vary dramatically – it may be helpful to redraft this paragraph accordingly.

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- 6.5 From the records provided it is clear that the RIPA policy has been reviewed and amended on a frequent basis, however it is recommended that at the time of the next review, the wording concerning CHIS authorisation referred to in paragraph 6.2 is amended to ensure that all statutory obligations are met.

7 Training

- 7.1 With the continued ability to use RIPA powers comes an obligation to ensure preparedness by ensuring that key staff complete regular refresher training, thus ensuring their knowledge is up to date with recent developments in legislation, guidance and best practice.
- 7.2 It is therefore pleasing to see that key personnel including the SRO and most of the nominated AOs as well as other key staff have undergone refresher training as recently as 2016 in partnership with a neighbouring council. It was noted that one AO and the Managing Director were not present at this event. To ensure that their knowledge is up to date, and that they are aware of recent developments in investigative methods including social media research, it is recommended that both should complete refresher training, either delivered by an external provider or internal Legal Advisors.

8. Reports to Members

- 8.1 The last formal report made to Members of the Audit Committee in respect of RIPA powers was made during March 2016; however a further report was due in the period of the Inspection, March 2018. The RIPA policy has been reviewed on an annual basis and as recently as March 2018.

9 Liaison with the Magistrates' Court

- 9.1 Watford BC has pre-existing arrangements in place with the Central Hertfordshire Courts Service to arrange hearings concerning RIPA activity. This was utilised most recently in 2016 when the last authorisation for directed surveillance was granted.

10 Authorising Officers

- 10.1 There are presently six nominated Authorising Officers which includes the present Managing Director. All are sufficiently senior to fulfil the requirements of SI 2010/521 which states that AOs must be of at least Director, Head of Service or Manager level.

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10.2 As referenced in paragraph 7.2, two of the nominated AOs have not completed refresher training since 2010, prior to the changes in authorisation arrangements brought about by the Protection of Freedoms Act 2012. As such, they will require refresher training to ensure that their knowledge is current.

11 CCTV and Technical Equipment

11.1 Watford BC owns a town centre CCTV system. The use of this system by partners such as the police is detailed within the RIPA policy which states that a copy of relevant sections of the directed surveillance authorisation must be provided prior to the commencement of observations.

11.2 The Council states that it does not retain any surveillance equipment.

12 Directed Surveillance

12.1 A single application for directed surveillance has been made in the period since the last Inspection (Spring 2016) and concerned an investigation into the systematic abuse of Disabled Parking Badges, amounting to offences under the Fraud Act.

12.2 The application for directed surveillance outlined the operational plan to covertly utilise CCTV cameras and foot patrols in order to target two identified subjects abusing disabled parking permits that they had no entitlement to use. Substantial earlier less invasive research had been undertaken to determine who these individuals were, however there remained a need to evidence them using the badges in a fraudulent manner.

12.3 The application was well explained, in particular considerations regarding how collateral intrusion was to be minimised and the wider proportionality of the operation. The Authorisation was completed to a similarly good standard, with the Authorising Officer giving a good explanation in their own words as to why they felt the operation was justifiable.

12.4 The application proceeded through the court authorisation process, details of this are held on file with the application, and the operation was cancelled following deployment approximately one month later with the fraudulent actions of the suspects having been confirmed through surveillance.

13 Conclusions

- 13.1 Despite its relatively low use of RIPA powers, Watford Borough Council has continued to deliver a good standard of compliance. There is in place a comprehensive policy document to guide potential users of surveillance and CHIS as to the actions they must take, all of which is supported by well established processes.
- 13.2 The single directed surveillance operation undertaken since the last Inspection was of a good standard, and addressed all the required elements of necessity, proportionality and collateral intrusion and was supported by a well set out Authorisation. The court authorisation process was complied with, all of which brought about a successful conclusion to the investigation.
- 13.3 Refresher training has been delivered to Council staff since the last Inspection and included many of the key personnel involved in RIPA decision making. However it is important that the Managing Director who may be called to make the more sensitive investigative decisions regarding the use of Surveillance or CHIS is equally up to date with recent legislative developments and operational practice, and thus should be provided with suitable refresher training/awareness raising as a matter of priority.

14 Recommendations

- 14.1 At the time of the next review of the RIPA Policy, the wording concerning CHIS authorisation referred to in paragraph 6.2 is amended to ensure that all statutory obligations are met.
- 14.2 All Authorising Officers that have not completed RIPA refresher training should be provided with an updated RIPA input, either through the provision of internal training or via an external provider.

Gráinne Athorn
Surveillance Inspector