

Office of Surveillance  
Commissioners

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Chief  
Surveillance  
Commissioner

Official -Sensitive

18 October 2016

OSC Inspection

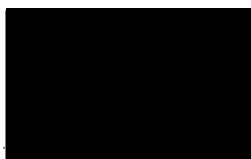
Dear *Chief Executive,*

I enclose a copy of the report dated 6 October 2016 prepared by His Honour Brian Barker CBE., QC. following his inspection of the arrangements made by the Council to ensure compliance with statutory provisions which govern the use of covert surveillance.

I have studied the report and endorse it.

The report is positive and speaks for itself. The statutory powers are deployed on very rare occasions. When they have been deployed during the last three years the necessary steps have been properly taken. For this purpose I think it is sensible to overlook the single aberration noted in paragraph 16. Moreover the Policy document, recently approved, is of high quality. The arrangements for training of relevant members of staff are effective and will continue with a rolling programme for training and a refresher session in 2017. In the context of the widespread use of modern social media the officers responsible have already appreciated the need to bear in mind that circumstances may arise in which the statutory protections will be engaged.

In reality the report is self-explanatory. I cannot usefully add anything to it, except perhaps to ask you to note the commendable way in which officials with the relevant responsibilities are discharging them.

*Eleanor Kelly,*Eleanor Kelly  
Chief Officer  
London Borough of Southwark  
160 Tooley Street  
London SE1P 5LX



**OFFICE OF SURVEILLANCE COMMISSIONERS**

**INSPECTION REPORT**

**London Borough of Southwark**

**3<sup>rd</sup> October 2016**

**Assistant Surveillance Commissioner:  
His Honour Brian Barker CBE, QC.**

## **OFFICAL- SENSITIVE**

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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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**OFFICAL – SENSITIVE**



Office of Surveillance  
Commissioners

The Rt. Hon The Lord Judge  
Chief Surveillance Commissioner,  
Office of Surveillance Commissioners,  
PO Box 29105  
London SW1V 1ZU

October 6th 2016.

**LONDON BOROUGH OF SOUTHWARK**

Inspection: October 3<sup>rd</sup>, 2016.

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

**INSPECTION REPORT**

**Introduction:**

1. The area was first settled in Roman times and now has a population of around 300,000, and has the 9th highest population density in England and Wales. The Borough is markedly youthful and ethnically diverse, and over 120 languages are spoken. It has many businesses, restaurants and bars; and tourist attractions include Borough Market, The Shard, The Globe Theatre and the Imperial War Museum.
2. The council is organized on a cabinet basis with a leader and 63 councillors representing 21 wards. It elects a Lord Mayor annually. New boundaries are in the offing, which will equalize and reduce the wards to 23. In addition there are five community councils who are able to prioritize local projects.
3. The authority has to absorb additional cuts of £30 million over the next three years with the challenge of maintaining as many front line services as possible. Some areas of service that were out sourced have been brought back in-house successfully.
4. It has the greatest proportion of social housing in England with about 55,000 units of housing stock, and there is a concerted effort in new projects to deliver an intermingled mixture of range and tenure.
5. The Safer Southwark Partnership has continued to make gains in the fight against youth knife and gun crime. There has been a noticeable increase in support from the community more recently in this regard, and

seemingly a shift in serious youth crime away to some neighbouring boroughs.

3. The Chief Officer, Eleanor Kelly, heads a team of four strategic directors. The members are: David Quirke-Thornton, Children's and Adults' Services; Gerri Scott, Housing Services and Community Services; Deborah Collins, Environment and Leisure; and Duncan Whitfield, Strategic Director, Finance and Corporate Services
6. The Council Offices are situated at 160 Tooley Street, London SE1P 5LX in a modernized building completed in 2009. It is predominantly open plan with limited desk space, and the authority run a 'digital by default' strategy.
7. The last inspection was by Andrew Mackian Surveillance Inspector, on September 23<sup>rd</sup> 2013, and was complimentary in many areas.

#### **Past Recommendations:**

8.
  - i: Formal oversight procedures to be brought into force with compliance standards reporting to the SRO
  - ii: Refresher training to be provided with particular emphasis on the compliance issues set out
  - iii: Obsolete RIPA forms to be withdrawn.

#### **Inspection:**

9. I was accompanied by Aftab Choudhury from the Secretariat on observation, and was warmly welcomed by Norman Coombe, the Head of Corporate Team, Legal Services Finance and Government, and a veteran of two previous inspections. All *RIPA* advice and work is channeled through him.
10. We were joined by Doreen Forrester-Brown Director of Legal Services, Monitoring Officer and Senior Responsible Officer; and we shared a wide-ranging discussion covering the general challenges faced by the authority and the more recent increased use of overt investigation and cooperation with other investigative agencies. Ms Forrester-Brown set out the steps taken to follow the recommendations above including an oversight procedure arising from *recommendation i* consisting of regular six-monthly meeting with the Authorising Officers to review the processes and training requirements, the next being in January. Other topics covered included their insistence on good record keeping even when applications were refused and the importance of recognizing the 'insurance policy aspect' of following *RIPA* procedure in investigations that came near the line.

- 11 The team have well in mind the now wide spread use of smart phone and the pitfalls of social media interrogation. In discussing the more recent focus by the authority on child exploitation cases, the importance of having *RIPA* in mind was picked up and would be given more prominence in the future, in addition to advice to officers on human rights.

#### **Examination of Central Record, Forms and Authorisations:**

12. Record keeping is in the hands of Norman Coombe and is in standard electronic, password-protected format with secure written back up. I was also shown the *RIPA* content and guidance and the links to the legislation and codes on the intranet (*'The Source'*), and the ease with which any officer could access the material.
13. I was able to examine the fourteen files of directed surveillance compiled since the last inspection, all coming from Trading Standards; and had a helpful discussion with Justin Miller, Team Leader of Trading Standards as to their general approach. This included coping with dwindling resources, proactive approach to training and details of the authority's policy through the Health and Wellbeing Board of bearing down on the sale of counterfeit cigarettes.
14. The four successful applications in 2013, 2014 and September 2015 all concerned the requests to observe the sale of packs of counterfeit cigarettes from market stalls, and had successful outcomes. One application was refused on the basis of other available methods.
15. In late 2015 and early 2016, there were sets of investigations into sales of illicit tobacco on Facebook sites, and a separate operation in conjunction with health officials in Wales into the sale through a variety of outlets in the Borough of illegally slaughtered and mis-labeled meat. In the event there were equipment problems with the fixed cameras, and these investigations continued by other means.
16. In all cases the underlying paperwork was sound, and cancellations were within the prescribed periods; although in once case of the investigation of offering illicit tobacco on a Facebook site early this year the renewal and cancellations dates were erroneously omitted from the authorisation log. [Mr Coombe was on holiday and the lack of input was overlooked on his return]

#### ***RIPA* Policy and Management Structure:**

17. The twenty two-page *Policy and Procedures* document is of a very high quality, and has received compliments in earlier inspections. It is balanced, readable and to the point; and this latest version was approved in January 2016. The importance of reading it in conjunction with the

2014 *Home Office Codes of Practice* and the *OSC Procedures and Guidance*, and where to find them, was prominent in the introduction; as was the advice to refer any queries to Norman Coombe and the governance team.

18. It has a consistent style with commendable short, emboldened, one or two sentence summaries at the conclusion of each topic. It also has a number of relevant examples of differing types of surveillance and which fall with in the legislation. , and deals fully with the effects of the 2012 legislation.
19. The section on Online Covert Activity and Social Media is sufficiently detailed and better than most, although to continue the high standard it deserves its own postscript/reminder to the effect that consideration should always be given to *RIPA* implications when accessing social media and personal sites.
20. As is common, there has been no *CHIS* application for many years, and no prospect in the future. Section E, nevertheless, on 'Conduct and Use of *CHIS*' gives a good explanation of the tool and the necessary controls, and includes proper advice on test purchases. The team are fully aware of the necessity of officers being able to recognise a '*CHIS* situation' when they meet one.
21. The overview diagram at section G: 'Applications for Authorisation and Approval' would also benefit from it being made clear that an Authorisation Officer must make an independent judgment with reasons rather than just countersign. I appreciate that this is discussed later in the text.
22. Section I: 'Approval by a Magistrate' sets out the Council policy that a qualified 'designated' officer' should accompany the application officer to the Magistrates' Court to present the application. We discussed the *OSC* recommendation that it is preferable for the Authorisation Officer to attend to assist if necessary. The practice has been for the A.O. to be available on the end of a phone, which given the seniority of the A.O's and their heavy workload would seem to be a reasonable compromise.
23. The Authorising Officers are listed with their contact numbers in the second appendix and consist of the Chief Executive to deal when necessary with juveniles/vulnerable persons and where confidential information features; Doreen Forrester-Brown, Director of Legal Services; and David Littleton, Head of Regulatory Services.
24. The other Authorising Officer is Michael Pinder, Head of Anti-Fraud and Internal Audit who I was able to meet, and then discuss with him some of the details of recent authorisations that he had been approved.

#### **Training:**

25. There has been an ongoing relationship with *Act Now*, who provided a three-hour course in February 2015 to fourteen of the senior officers including two of the Authorising Officers.
26. Although there is no prescribed budget for training, the team have managed to identify funds and smaller sessions were provided in May 2016 for the remaining A.O.'s and some legal officers, and in August 2016 a further session for other officers. It is intended to have a rolling programme and a further refresher session in 2017.
27. Justin Miller told me how Trading Standards has managed to be able to use some of the monies raised from *POCA* claw backs to provide recent three and five day course for himself and a number of his officers on best practice in foot, mobile and public transport surveillance. Trading Standard also has regular in-house practice sessions on surveillance techniques.
28. Norman Coombe also reviews the increasing number of relevant lectures given by various Chambers and firms of solicitors, and officers attend when useful. Additionally, he inserts in the '*Clause for Concern*' section in *The Source*, any changes or significant decisions and discussions that he had monitored, for wider distribution and reading.

### **Councillors**

25. The system for Review is set out in *The Policy and Procedures* document [section K / 2 and 3]. The Standards Committee review *RIPA* use and The Policy annually, and for this purpose Doreen Forrester-Brown as SRO provides a report. I was shown a copy of the minutes of the March 8<sup>th</sup> 2016 meeting, which included her report. It also notes a discussion on guidance and training for members in social media and digital services, which recommended greater awareness among members of trends and clearer guidance and training beyond the members' code of conduct.
26. The relevant Cabinet Member reviews and approves The Policy every two years.
27. With the committee and cabinet review procedure, the guidance set out under the *RIPA* section in *The Source* and the availability of the legal team, the lines of communication with the elected members appear good.

### **CCTV**

28. The CCTV facility operates next to the police station in the Borough area, and I was shown round by Sarah Pope the manager who has held the post for eight years. I also met Anthony Ede who deals with much of the administration and the many freedom of information requests.



29. The facility has the benefit of modern digital equipment which was installed in time for the 2012 Olympics. It operates under the Surveillance Camera Code of Practice. All information is downloaded and is available for play back on a split monitor. There are nine operatives who work to fixed shifts, which provide two on duty on a 24/7 basis. Since a reorganisation in August 2015, all operators are now 'in house' and employed by the authority.
30. Although not much use is made of authorisations by the area Force (in the region of a dozen a year) there is a separate work suite available to review evidence and burn discs. I examined the *RIPA* Records File which was readily available and in good order. The records are also kept on a computer database.
31. There are effective audio links with major shops and entertainment establishments, and as a result of the exchange of information regular proactive arrests have been made. The facility is a contributing member of the Partnership Tasking Group which meets monthly.
32. The facility was clearly operating to a good and efficient standard under the lead of Ms Pope, and their certificate of compliance was on display, as was the 2016 Met Award for 'Best Control Room'.

### **Conclusions**

33. The move towards the preference of overt methods and the use of *RIPA* as a last resort was as evident at Southwark as it is in many other authorities. Nevertheless, the *RIPA* team have considerable experience in this area, and a clear commitment to maintaining proper standards of supervision, awareness and training so as to be ready when the occasion demands.
34. Such amendments as seemed appropriate to the Policy and Procedures document were minor and agreeable; and the overall standard and oversight revealed by the inspection are such standard that no recommendations are necessary.
35. Finally, I would like to thank firstly Norman Coombe for the efficient organisation of my inspection; and secondly to everyone for their hospitality, time and willing cooperation in compiling this report.

**Brian Barker,**  
**Assistant Surveillance Commissioner.**