



OFFICE OF SURVEILLANCE COMMISSIONERS

INSPECTION REPORT

Southend Borough Council

8th August 2016

**Assistant Surveillance Commissioner:
HH Brian Baker CBE, QC.**

OFFICIAL- SENSITIVE

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OFFICIAL – SENSITIVE



Office of Surveillance
Commissioners

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

August 11th, 2016.

INSPECTION REPORT SOUTHEND BOROUGH COUNCIL

Inspection August 8th, 2016.

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

Introduction:

1. Southend Borough Council is a unitary authority serving a population of 180,000, and has about 1800 staff. Despite having to find additional cuts of around £28m over the next three years front line services are being protected, and improvements are still able to be made from the capital budget to safe guard the attraction and reputation of the pier. The airport continues to expand with more routes being flown by easyJet and the Stobart Group is continuing to provide better facilities.
2. The council is organized on a cabinet basis with a leader and 61 councillors representing 17 wards. It elects a Mayor annually as first citizen.
3. The Chief Executive and Town Clerk, Ron Tinlim has been in post since 2005, and is supported by a Corporate Management Team. This consists of three Directors: for People, Place and for Corporate Services who has reporting to him the Head of Legal and Democratic Services, the Head of Finance and the Head of People and Policy
4. The last inspection was carried out by His Honour David Hodson on August 27th 2013. It was a positive report and he had noted the use of directed surveillance on three occasions since the 2010 inspection and was able to observe that the documentation was completed in an exemplary manner.
5. The address of the Civic Centre is Victoria Avenue, Southend on Sea, SS1 9SB

Past Recommendations:

6. Minor amendments to the Policy and Procedures document.

Inspection:

7. I was warmly welcomed by John Williams, Head of Legal and Democratic Services, Monitoring Officer and Senior Responsible Officer. The long established system of Mr. Williams has been for his principal legal executive to be the Co-ordinating Officer. This position has been recently taken up by Tessa O'Dowell who is currently on holiday. Also in attendance were:
 - Carl Robinson: Group Manager Regulatory Services (Trading Standards) and senior Authorising Officer
 - David Baxter: Regulatory Services Officer.
8. I was provided with well-prepared reference materials and a master file containing for example OSC Annual Reports, and we embarked on a wide-ranging discussion. I was taken through the way in which the authority had addressed, pretty successfully, the universal budgetary problems. Although there had been no direct policy to use more overt methods, covert surveillance applications have dropped in recent years. The higher threshold had played its part, but the team had also noted more nervousness in approach by investigative officer as familiarity with practical use declined.
9. It was clear, however, that RIPA awareness had remained on the agenda with easily findable material through hyperlinks on the internal intranet being regularly updated. Attention had also been paid to the Council's Internet site. The importance of being 'match fit' and the ability to recognise a *CHIS* situation should the need for use arise, and the insurance policy that being within the procedures provided were also discussed. The potential problems of the increased use of social media and the temptation of going beyond open source material had been appreciated having been raised in the training sessions, and we reflected on the increased need for vigilance in this area. We discussed the possibility of investigations by the Children's Services straying into *RIPA* territory and it was agreed that checks would be made with the appropriate managers and probable inclusion for awareness training in the next session.
10. The deputed Authorising officers were an experienced team and in addition to Carl Robinson consisted of Steve Crowther: Group Manager Waste and Environmental Care and Simon Ford: Group Manager Community Safety and Crime Reduction.

11. Working closely with the SRO was David Kleinberg: Group Manager of Counter Fraud and Investigation, Authorising Officer and employee of Thorrock Borough Council who runs a free standing and busy fraud investigation department and is contracted to take all Southend's investigations. He was available, and was able to tell me of their growth, some of their successes and of the requests for advice and assistance that his team had received from other agencies; and of an expansion into cyber crime. He took responsibility for matters undertaken on behalf of Southend Borough Council and kept separate records, but these were monitored in turn by John Williams.
12. Ron Tinlim, the Chief Executive and Town Clerk who although has not been *RIPA* trained and not an Authorising Officer for the specified cases, has expressed a continuing interest in the use of *RIPA* and is informed of any *RIPA* activity.

recommendation

Examination of Central Record:

- 13 The records are kept on the standard computer spread sheets. I was able to examine the retained hard copies. There have been two approved authorisations of directed surveillance since the last inspection:
 - 2013: underage test purchases relating to alcohol at nine named outlets
 - 2014: investigating a suggestion that a tenant who was claiming benefit and living alone was subletting. The allegation was not supported and no proceedings resulted.The applications and subsequent stages were balanced, addressed the requirements and were in good order.
14. In addition a 'Non RIPA Register' is kept, where again the considerations were observed appropriately. Used sparingly, there were two underage tests in 2015 and one in 2016 at licensed premises. These following a well publicized campaign 'Challenge 25' to ensure bar staff compliance where it was indicated testing would take place.

Policy and Procedures:

15. The current document has been updated a number of times, the last being in June 2016. It runs to 32 pages with appendices of sample forms, and is comprehensive and clearly written, including useful practical examples where appropriate. Part 1, of 15 pages, covers basic matters and picks up for example on procedure for *non RIPA* investigations with examples such as diary sheets recording disturbance from alleged businesses run from home. Parts 2 and 3 deal specifically with detailed procedures for undertaking directed covert surveillance and the use of *CHIS* respectively.

16. To further assist the reader, we discussed that it would help to have in the initial introduction the names and contact details of the SRO, the Co-ordinator and the Authorising Officers, the fact that the Policy should be read in conjunction with the *Home Office Codes of Practice* and *OSC Guidance* [email links supplied], and the exhortation that the advice of the Legal Services should be sought at the earliest stage.
17. Sections on Internet and Social Media Investigations (para 6.5.2.) and Using the Internet to Conduct Online Covert Activity (para 8) had been recently expanded and gave clear guidance.
18. There was no reference to the preferred practice of the Authorising Officer attending the Magistrates' Court to assist if necessary (OSC Procedure and Guidance 291), and this would be inserted.
19. Although the well known flow charts relating to authorising procedures and the application to the Magistrates were available in the training material, it was agreed it would be helpful to add these in the Appendix.

recommendation

Training:

20. Consistent policy has been to provide one external Refresher training session each year for staff directly involved with *RIPA*, and awareness training for staff who could inadvertently undertake *RIPA* surveillance. New staff who could be involved with *RIPA* are briefed as part of their induction. Staff appraisal is expected to include discussion with their manager regarding *RIPA* material where appropriate.
21. Training has been regularly provided over a number of years by Peter Fowler of PHF Training Ltd. I have seen some of the material provided and it is of a good standard. The records of May 2015 and two days in May 2016 show a wide attendance. 2016 included further advice on the use of social media and the 2017 sessions will include a section on *CHIS* use. He has a good relationship with the authority and provides regular updates and provides advice when required.

Councillors

22. A report of *RIPA* use is submitted to the first Cabinet in the municipal year by the SRO, and this year at the same time meeting the updates were approved. In addition training reports are available for scrutiny.
23. My impression is that whilst there has been a consistent effort to keep awareness up among investigative staff, the awareness level of the availability and scope of *RIPA* procedures among most of the elected members is bound to be patchy. In these challenging times,

opportunities through more regular short reports and through the intranet should be taken to raise profile.

recommendation

CCTV

24. My inspection finished with a visit to the CCTV centre, situated half a mile away. I was welcomed by the Barry Davis who has been Team Leader for five years. He draws on a total of nine trained staff, with two operative on duty at any one time and third on Friday and Saturday night. The system is three and half years old with a mixture of cameras, and digital down load. The majority of the 165 cameras are in and around the High Street but also cover the third party operated Estuary Housing. There are radio links with pubs and clubs and the Essex Police HQ in Chelmsford.
25. Around 7000 incidents were recorded in the incident log in 2015, and footage is regularly used for prosecutions, and on our visit a continuity officer was present preparing evidence and appropriate documentation.
26. The *RIPA* authorisations are kept in one file under lock and key and the log and authorisation sheets are kept separately and also securely. There has only been once application in each of 2014, 2015 and 2016 and it was not thought necessary for the process to be computerized. Several mobile cameras are available for overt hire with signage, and a separate log is kept. All the documentation was in good order, and I was told that Peter Fowler makes himself available to advise and offer suggestions when appropriate.
27. The facility is clearly a well run and efficient facility. It has received a number of awards, and this year was awarded a National CCTV Users Groups Excellence Award both for the Manager and for the Team.

Conclusions

28. Despite the low usage, a proper focus has been maintained on regular training and discussion and the authority's approach to *RIPA* has clearly benefited both from the continuity of experience of Mr. Williams, and from the obvious team spirit and enthusiasm that exists with the appropriate managers.
29. I am confident from my inspection that the Borough Council is in a position to deal properly with any investigations that may arise, and are alive both to changing habits and use of personal postings on the internet, as well as for need for continued awareness. The limited recommendations I make, I hope will improve what is already a well polished system.

30. I wish to record my thanks to Mr Williams for his organization and hospitality, and to the other officers for their cooperation and help during my inspection.

Recommendations

30. *i: minor additions to the Policy and Procedures Document*
- ii: the Chief Executive and Town Clerk to receive some one to one training from the SRO so that he would be able to be an Authorising Officer in the unlikely event that an Annex A situation should arise.*
- iii. raise the awareness level among the elected members by more frequent reports of [non] use, and the occasional targeted circulation of explanations of the potential use of the tool and the care needed with interrogation of social media.*

Brian Barker,
Assistant Surveillance Commissioner.