



Chief  
Surveillance  
Commissioner

OFFICIAL-SENSITIVE

14<sup>th</sup> August 2014

*Dear M/s Ireland,*

**Covert Surveillance**

On 21<sup>st</sup> July 2014, one of my Inspectors, Mr Kevin Davis, 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 Davis's report which I endorse. I am pleased to see that the recommendations made following the last inspection in 2010 have been discharged. Through the efforts of Mr David Lawson and M/s Alison Stewart you have in place a good structure to ensure RIPA compliance.

The single recommendation is that, as a matter of urgency, you ensure compliance with paragraph 3.30 of the Covert Surveillance and Property Interference Code of Practice in relation to elected members' review of the use of RIPA

I shall be glad to learn that your Council accepts the recommendation and will see that it is 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  
Christopher Rose*

M/s Jo-Anne Ireland  
Head of Paid Service  
Brentwood Borough Council  
Town Hall  
Ingrave Road  
Brentwood  
Essex CM15 8AY



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**OFFICE OF SURVEILLANCE COMMISSIONERS**  
**INSPECTION REPORT**

**Brentwood Borough Council**

**21<sup>st</sup> July 2014**

**Surveillance Inspector:**  
**Mr Kevin Davis.**

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### **DISCLAIMER**

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

The Rt. Hon. Sir Christopher Rose  
Chief Surveillance Commissioner  
PO Box 29105  
London SW1V 1ZU

27 July 2014.

**OSC INSPECTION REPORT- BRENTWOOD BOROUGH COUNCIL.**

The inspection took place on Monday 21 July 2014.

**Inspector**

Mr Kevin Davis.

**General Description**

- 1 The Borough is named after the town of Brentwood which is the main development in the area. There are still large areas of woodland including Shenfield Common, Hartswood, Weald Country Park and Thorndon Country Park. The original district council was formed in 1974 from the former area of Brentwood Urban District, part of Epping and Ongar Rural District and part of Chelmsford Rural District. By royal charter, the district became a borough on 27 April 1973.
- 2 The Council describes in its Corporate Plan the following six priority areas:
  - Street Scene and Environment
  - Localism
  - A prosperous Borough
  - Housing, Health and Wellbeing
  - A safe Borough
  - A modern Council.
- 3 The Council provides a range of services to a population of 70,000 and employs approximately 300 staff.
- 4 The Managing Director of the Council stood down from the position on 6 July 2014. The Council has appointed Ms Jo-Anne Ireland to the position of Head of Paid Service, pending the recruitment of a Chief Executive.
- 5 The address for correspondence is, Brentwood Borough Council, Town Hall, Ingrave Road, Brentwood, Essex, CM15 8AY.

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1

### Inspection Approach

- 6 The purpose of the inspection was to examine policies, procedures, operations and administration in relation to directed surveillance and covert human intelligence sources (CHIS) under the Regulation of Investigatory Powers Act 2000 (RIPA).
- 7 During the inspection I had discussions with the following members of staff:
- Ms Alison Stewart (Acting Head of Legal)
  - Mr David Lawson (Monitoring Officer)
  - Mr Rick Steels (Revenue and Benefits Manager).

### Review of Progress

- 8 HH Dr Colin Kolbert in his inspection report in November 2010 made three recommendations.

*1) The Council's 'Corporate Policy and Procedures on RIPA' should be amended as was discussed and outlined in paragraph 7*

#### **Action**

Paragraph 7 of Dr Kolbert's report concerned the use of CHIS. The appropriate amendments have been made and are included in the draft RIPA policy document.

#### **Discharged**

*2) Care must be taken to ensure that any directed surveillance undertaken is "necessary" in accordance with S.I.2003, No 3171(see paragraph 12).*

#### **Action**

This issue is explained in the draft RIPA policy document.

#### **Discharged**

*3) All authorisations should be rigorously reviewed to ensure that the issues outlined in paragraph 10 are demonstrated to have been fully considered and documented.*

#### **Action**

Advice and guidance to authorising officers is included in the draft RIPA policy document.

#### **Discharged**



### Policies and procedures

- 9 The Council has entered into a shared legal service arrangement with the Barking Dagenham and Thurrock (BDT) Legal Service. BDT covers the same locations in terms of courts and the arrangement brings together approximately 70 lawyers across the three councils.
- 10 Ms Alison Stewart who is a BDT employee is the Senior Responsible Officer (SRO) for the Council. Although Ms Stewart is an employee of BDT Legal Services and Thurrock Council, she is also a member of the Brentwood Council Corporate Leadership Team. The Council does not as yet comply with paragraph 3.30 of the Covert Surveillance and Property Interference Code of Practice. I raised the issue with Mr Lawson and Ms Stewart who stated that the reporting process would begin in September 2014. All relevant reports are to be submitted to the Audit and Scrutiny Committee.
- 11 The Council's existing 'Corporate Policy and Procedures' document on RIPA dates from 2010. Mr Lawson identified the need to update the document in light of the new Protection of Freedoms Act 2012. The revised document is in draft form and is due to be presented to the Council in the near future.
- 12 I examined the draft document and found it to be comprehensive and easy to understand for both applicants and authorising officers. My only observation is that in paragraph 10, the SRO is given the role as the final arbiter, and is shown to be responsible for approving an authorisation already signed by an authorising officer.
- 13 I would suggest that this is not the role of the SRO. The Code of Practice for Covert Surveillance and Property Interference paragraph 3.28 states the following.
- 'A Senior Responsible Officer should be responsible for:*
- *the integrity of the process in place within the public authority to authorise directed and intrusive surveillance and interference with property or wireless telegraphy;*
  - *compliance with Part II of the 2000 Act, Part III of the 1997 Act and with this code;*
  - *engagement with the Commissioners and inspectors when they conduct their inspections, and*
  - *where necessary, overseeing the implementation of any post inspection action plans recommended or approved by a Commissioner.'*
- 14 The draft RIPA policy document gives details of the two authorising officers within the Council excluding the Chief Executive.
- 15 The draft RIPA policy document states that before any authorised covert activity takes place, the applicant is required to inform the Divisional Intelligence Unit at Brentwood Police station. Though this is not a legislative requirement, I believe it to be sensible and could be reduce the risk of compromise and enhance the safety of the Council surveillance operatives.

### Training

- 16 Mr Lawson arranged for training to take place in February 2014. The course was delivered by an outside contractor and was attended by 18 relevant personnel. The training was well received by those who attended and Mr Lawson has created a training record of those who attended.

### Significant issues

#### Council ethos

- 17 The Council is not a regular user of the powers vested under RIPA but is not afraid to use covert investigative techniques when required.

#### Central Record of Authorisations

- 18 The Central Record of Authorisations is compliant with paragraph 8.1 of the Covert Surveillance and Property Interference Code of Practice and is maintained by Mr Lawson.

#### Directed Surveillance

- 19 Directed surveillance has not been authorised since the last inspection in 2010.

#### CHIS

- 20 There have been no authorisations for CHIS since the last inspection. This is an area of covert activity that the Council is not keen to embark upon because they do not have experience in this area of covert investigation.
- 21 The draft RIPA policy document sets out clear guidance for both applicants and authorising officers. In discussions with Mr Lawson and Ms Stewart it was evident that they would be reluctant to sanction the use of CHIS, but acknowledged that should the situation arise they would have a responsibility to act. In the first instance they would seek advice from the Brentwood Council 'Community Safety Team' that works closely with Essex police.

#### Social media

- 22 I interviewed Mr Rick Steels the Revenue and Benefits Manager concerning the use of social media as an investigative tool. He was of the opinion that some members of staff did access social media such as 'Facebook' but only viewed 'open source material'. Mr Steels was unaware of OSC guidance note 308. The Council may wish to circulate to relevant personnel the information contained in the OSC guidance document.

### **Observations**

- 23 **Brentwood Borough Council, through the efforts of Mr Lawson and his colleague Ms Stewart from BDT Legal Services, has put a good structure in place to ensure RIPA compliance.**
- 24 **Finally, I would like to thank all of those who participated so positively in the inspection process, and in particular Mr David Lawson for making all the necessary arrangements.**

### **Recommendation**

- 25 **That the Council as a matter of urgency ensures compliance with paragraph 3.30 of the Covert Surveillance and Property Interference Code of Practice, which relates to the requirement of elected members of the Council to review the authority's use of the 2000 Act.**

**Kevin Davis**

**Surveillance Inspector.**

