



Chief  
Surveillance  
Commissioner

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**4 April 2017**

**OSC Inspection**

Dear *Chief Executive,*

I enclose a copy of the report dated 6 March 2017 prepared by Mrs Grainne Athorn, Surveillance Inspector, following her inspection of the arrangements made by the Council to secure compliance with the statutory provisions which govern the use of covert surveillance. The report was prepared on an analysis of the material provided by Mr Carrington-West and without a personal visit to the Council. If having considered the report, and this letter, you conclude that a personal visit would be appropriate, the necessary arrangements will be made.

I have studied the report and endorse it.

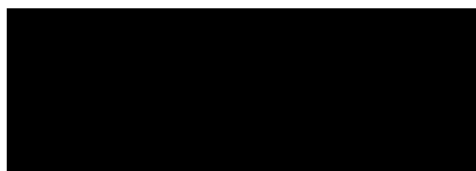
It is now nearly four years since the last inspection. The recommendations made at that time were addressed and can now be discharged. The Council has not exercised, nor sought to exercise its statutory powers for some years now, and this policy is likely to continue. Nevertheless, and subject to the remaining part of the letter, there appears to be a reasonable structure available for deployment if this were to change.

There are three recommendations this year. The first is a matter of detail relating to urgent oral authorisations in the Policy document, which is no longer appropriate as it has been overtaken by further legislation. The remaining recommendations are required to bring the current arrangements up-to-date both by reference to refresher training, which should be seen as an ongoing ingredient of a well structured system, and by highlighting the need for guidance and training to Council officers about the use of social media sites and Internet research for investigative purposes. The difficulty in this particular context is that without appropriate guidance and training Council officers, acting in good faith may, as Mrs Athorn explains, drift into surveillance falling within the protective ambit of the legislation, and thus be acting unlawfully.

Provided these recommendations are accepted, and action taken to implement them the arrangements should be adequate to deal with the limited use of the statutory powers which is currently envisaged. Indeed the greatest potential threat is the risk of inadvertent, but unlawful investigations, in the way described in the report.

I look forward to hearing that the recommendations are accepted and that appropriate action will be taken.

Yours sincerely,



Pav Ramewal Esq  
Chief Executive  
Sevenoaks District Council  
Argyle Road  
Sevenoaks  
Kent TM13 1HG

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

**Sevenoaks District Council**

**Monday 6<sup>th</sup> March 2017**

**Surveillance Inspector:**

**Mrs Grainne Athorn**

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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.

The report is sent only to the recipient of the Chief Surveillance Commissioner's letter (normally the Chief Officer of the authority inspected). Copies of the report, or extracts of it, may be distributed at the recipient's discretion but the version received under the covering letter should remain intact as the master version.

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

6<sup>th</sup> March 2017

**OSC INSPECTION – SEVENOAKS DISTRICT COUNCIL**

**1 Date of Inspection**

A desktop review of Sevenoaks District Council was undertaken on Monday the 6<sup>th</sup> March 2017.

**2 Inspector**

Mrs Gráinne Athorn.

**3 Introduction**

3.1 Sevenoaks District Council serves a population of approximately 114,000 (as of 2011) and covers the westernmost part of Kent in England. To the North West the district borders with two Greater London Boroughs (Bromley and Bexley) in Swanley, as well as Surrey to the West near Westerham and East Sussex to the South near Edenbridge.

3.2 The Chief Executive is Mr Pav Ramewal who is supported by Senior Responsible Officer Jim Carrington-West, Chief Officer Corporate Services. General responsibility for compliance with the Regulation of Investigatory Powers Act 2000 falls with Martin Goodman, Head of Legal and Democratic Services.

3.3 The address for correspondence is Sevenoaks District Council, Council Offices, Argyle Road, Sevenoaks, Kent TN13 1HG.

**4 Inspection Approach**

4.1 The last inspection was undertaken by Mr Kevin Davis during June 2013, since then no RIPA activity has been undertaken. As a consequence, this report has been prepared without visiting Sevenoaks District Council. To assess its ongoing compliance I have reviewed information provided by its RIPA Lead/SRO and the associated Surveillance Policy.

**5 Actions Taken on Past Recommendations**

5.1 Mr Davis's inspection report of 2013 made three recommendations.

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- 5.2 The Council ensure that the Code of Practice paragraph 3.30 is complied with as a matter of urgency.

*To provide context, this comment related to the requirement for Council Elected Members relating to the use of these powers quarterly.*

Members reviewed the recommendations arising from the last inspection during October of 2013, and since then have been updated on the use of surveillance powers and the associated policy as part of the Monitoring Officer's report to the Standards Committee and Council during both 2014 and 2015. As mentioned previously, surveillance powers have not been used since the last inspection. I suggest it would be good practice to continue this activity in the future to ensure the council is ready and able to use its powers should it become necessary.

### **Recommendation Discharged**

- 5.3 The Council ensure that the extant recommendation of 2010 with regard to training is acted upon without delay.

*Specifically no training had been provided to senior officials including Authorising Officers and staff with responsibility for the compliance of key services such as CCTV. This recommendation had been extant since the inspection prior to that by Mr Davis, performed by HH Norman Jones, QC.*

Extensive training was provided soon after the last inspection which included the three nominated Authorising Officers, the present Chief Executive, the SRO and a further 22 key staff. It is helpful that this training was delivered so soon after the last inspection, and I note that many of the trained senior personnel remain in post.

### **Recommendation Discharged**

- 5.4 That future training encompasses the issues identified in paragraphs 16 and 18 of this report.

*Upon reviewing the last surveillance application Mr Davis commented that it had failed to provide information relating to the provenance of intelligence and the period of duration was incorrect.*

The training provided detailed above covered these elements of compliance as well as other key themes of RIPA.

### **Recommendation Discharged**

## **6 Review of Policies and Procedures**

- 6.1 The Surveillance Policy provides a focal point for Council staff seeking guidance as to Sevenoaks' RIPA compliance structure. It is succinct and easy to read and contains broad definitions of surveillance and CHIS. There are currently three trained AOs who are instructed by the policy not to authorise activity falling within their own areas of

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responsibility. The policy also identifies the requirement for surveillance applicants to receive training before making a request for authorisation.

- 6.2 The policy makes frequent reference to arrangements for urgent oral authorisations. The power to grant urgent oral authorisations as detailed within section 43(1)(a) of the Regulation of Investigatory Powers Act 2000 was removed from organisations that require judicial approval for their authorisations, of which Sevenoaks DC is one. **Recommendation: All references to Urgent Oral Authorisations should be removed from the present Surveillance Policy.**
- 6.3 When detailing arrangements for the management of CHIS the policy also states the requirement for 'an assessment of the risk to the source in carrying out the proposed conduct', this should also explicitly detail the likely consequences should the role of the source as an informant become known (see paragraph 6.14 Covert Human Intelligence Source Code of Practice).
- 6.4 The section of the Policy referencing examples of when a surveillance authorisation may be required is helpful but could benefit from minor redrafting. Specifically, it refers to types of offences that may be investigated using surveillance powers; to illuminate this further it may be useful to refer to the crime thresholds referred to in The Protection of Freedoms Act 2012 (Part III of the Home Office Guidance published in October 2012 is also helpful).

## 7 RIPA Awareness

- 7.1 Whilst Sevenoaks does not make use of the powers conferred upon it by RIPA it must continue to take steps to ensure that its staff have an awareness of its provisions and the basic requirements to consider when considering conducting covert surveillance. There is a risk that where such powers are not used, council officials might neglect to consider when their activity may inadvertently drift into that which may be considered to be covert surveillance. One area where this risk is most present is the monitoring of social media and open source material available on the internet.
- 7.2 **Recommendation: The Surveillance Policy requires updating to provide guidance to council staff as to how social media and/or open source research may be undertaken as part of the investigative process and the potential for such activity to amount to covert surveillance.** This advice need not be lengthy but should direct officers as to how to manage their online activity to ensure they do not inadvertently conduct covert surveillance online.

## 8 Reports to Members

- 8.1 An annual report to members is submitted by the Monitoring Officer and includes information regarding RIPA compliance and use. This report was submitted to members via the Standards Committee and Council in all years since the last inspection, with the exception of 2016. This practice should continue, if only to highlight the low use of available powers.

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## 9 Liaison with the Magistrates' Court

- 9.1 Sevenoaks District Council has not requested any use of its surveillance powers since the last inspection in 2013 and made only one request in the period prior to that inspection. As such, establishing a relationship with the Magistrates' Court has not been necessary, although experience shows that advance preparations can help to smooth the process when such an occasion does arise.
- 9.2 Procedures relating to the submission of documentation to the court are detailed within the Surveillance Policy. This document makes reference to responsibility for arranging court visits residing with the Head of Legal and Democratic Services. I suggest that should a surveillance authorisation request be made to the court in the period following this inspection, the relevant Authorising Officer should also attend court, and that this practice be highlighted in the Surveillance Policy as best practice.

## 10 Authorising Officers

- 10.1 The Council has designated three senior staff as Authorising Officers, they are: Adrian Rowbotham, Chief Finance Officer; Richard Morris, Chief Planning Officer; and Richard Wilson, Chief Environment and Operational Services Officer, all of whom appear to be sufficiently senior to fulfil the requirements of SI 2010/521. All Authorising Officers received training in 2013 but are yet to exercise their powers.

## 11 Training

- 11.1 Training was provided by an independent provider soon after the last inspection in 2013, and included the present Chief Executive, the SRO, Authorising Officers and other staff in key areas of the council including CCTV. Whilst the low usage of RIPA powers and pressures placed upon local authority finances is acknowledged, the absence of further training since then is marked, and I recommend that refresher training is undertaken, at the very least by the nominated AOs on perhaps an annual basis. This need not be expensive and could be suitably provided by the in house legal team or in partnership with neighbouring councils to keep costs down. Many councils find the idea of a "table top exercise" a helpful practice.

**Recommendation: The Council should ensure that regular refresher training is provided to key officers to ensure, even in the absence of actual use of the powers available, they remain "match fit".**

## 12 CCTV and Technical Equipment

- 12.1 Sevenoaks Council does not retain any equipment used for the sole purpose of conducting directed surveillance. There is however, a CCTV system which is owned and operated by the council. To facilitate the running of this unit a CCTV code of practice is in place as well as a signed partnership agreement with key partners Kent Police. The Surveillance Policy makes reference to the use of this system for the purpose of covert surveillance and references the requirement for an extant directed surveillance authorisation should this be necessary.



### **13 Conclusions**

- 13.1 Sevenoaks District Council has not made use of its surveillance or CHIS powers in the period since the last inspection, however a comprehensive Surveillance Policy remains in place to govern such activity if it becomes necessary.
- 13.2 Some minor amendments to the Surveillance Policy are required, including the need to highlight how social media and open source monitoring tools may be used as part of covert surveillance activity. These amendments should be made once Council Legal Officers have had the opportunity to review the forthcoming publication of the amended Covert Surveillance Code of Practice<sup>1</sup> which is expected to address these issues in more detail.
- 13.3 The absence of authorisation documentation generated since the last inspection means that it is not possible to comment upon the quality of authorisations, however should one be required there appears sufficient guidance available to enable it to be completed to a good standard, although the need for ongoing training for applicants and Authorising Officers is a key insurance measure.

### **14 Recommendations**

- 14.1 All references to Urgent Oral Authorisations should be removed from the present Surveillance Policy.
- 14.2 The Surveillance Policy requires updating to provide guidance to council staff as to how social media and/or open source research may be undertaken as part of the investigative process and the potential for such activity to amount to covert surveillance.
- 14.3 The Council should ensure that regular refresher training is provided to key officers to ensure, even in the absence of actual use of the powers available, they remain "match fit".

Gráinne Athorn  
Surveillance Inspector

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<sup>1</sup> Revised Home Office Codes are due to be issued later in 2017 to take into account the passing of the Investigatory Powers Act 2016.