

Appendix 1



**Office of Surveillance
Commissioners**

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With Compliments

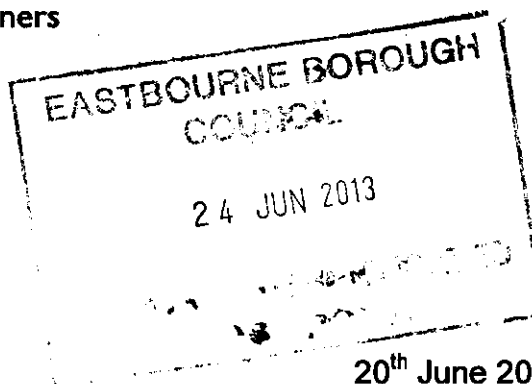
**Yvette Moore
Clerk to the Secretariat**



Office of Surveillance
Commissioners



Chief
Surveillance
Commissioner



20th June 2013

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Dear Mr. Cottrill,

Covert Surveillance

On 5 June 2013, one of my Inspectors, Mrs Clare Ringshaw-Dowle, 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 Mrs Ringshaw-Dowle's report which I endorse. I am pleased to see that the recommendations made following the last inspection 3 years ago have been completed and that there has been what Mrs Ringshaw-Dowle calls "a wholesale change in approach" since she last inspected your Council in 2008. She identifies good practice in relation to clear and helpful guidance materials, engaged officers, good training provision and internal oversight mechanisms and good management processes for management of surveillance equipment.

There are no recommendations but I draw attention to the matters, highlighted by Mrs Ringshaw-Dowle in para 10.2 of the report, meriting close scrutiny.

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 find this process constructive.

Please let this Office know if it can help at any time.

Mr Robert Cottrill
Chief Executive
Eastbourne Borough Council
1 Grove Road
Eastbourne
East Sussex
BN21 4TW

*Yours sincerely,
Christopher Rose*

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**Office of Surveillance
Commissioners**

OFFICE OF SURVEILLANCE COMMISSIONERS

INSPECTION REPORT

Eastbourne Borough Council

5th June 2013

**Assistant Surveillance Inspector:
Mrs Clare Ringshaw-Dowle**

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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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Office of Surveillance
Commissioners

OSC/INSP/075

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

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7 June 2013

OSC INSPECTION REPORT – EASTBOURNE BOROUGH COUNCIL

Date of inspection

5th June 2013.

Inspector

Clare Ringshaw-Dowle.

1 Introduction

- 1.1 Eastbourne is a seaside town at the foot of the South Downs in East Sussex with a population of around 90,000 people, who largely fall into three main categories: the retired, commuters, and seasonal workers. Eastbourne Borough Council (EBC) is half way through a major change to its way of working, under the banner “DRIVE” – Delivering Real Innovation and Value for Eastbourne. All officers now work from a single location, but home working is encouraged, as is spending as much time as possible out in the community, engaging with residents and raising the Council’s profile.
- 1.2 The Chief Executive and his Deputy are responsible for six Heads of Service, taking three apiece for external and internal services respectively. The focus under DRIVE is to end the traditional “silo” approach of Council services and make them far more integrated and customer-centric. Levels of crime and disorder are pretty average, but on a downward trend. The potential for increased working alongside the local police is being explored.
- 1.3 The Chief Executive is Robert Cottrill. The Senior Responsible Officer (SRO) for RIPA is the Deputy Chief Executive, Julian Osgathorpe. The address for correspondence is Eastbourne Borough Council, 1 Grove Road, Eastbourne, East Sussex, BN21 4TW.

2 Inspection process

- 2.1 The inspection consisted of discussions with the following members of staff:

- Robert Cottrill (Chief Executive)
- Julian Osgathorpe (Deputy Chief Executive & SRO)
- Victoria Simpson (Lawyer to the Council)
- Ian Fitzpatrick (Senior Head of Community)
- Jeff Collard (Senior Head of Development & Environment)
- Tracey McNulty (Senior Head of Tourism & Leisure)
- Alan Osborne (Chief Finance Officer)

- Becky Cooke (HR Manager)
- Alison Robins (HR Advisor)
- Julie Hickling (Specialist Advisor, Noise Nuisance)
- Jay Virgo (Senior Specialist Advisor, Licensing)
- Nikkee Houghton (Investigator, Benefit Fraud)
- Adam Godden (Investigations Officer, Benefit Fraud)
- Dan Stevens (Neighbourhood Advisor, Planning Enforcement)
- Denise White (Information & Administration Officer)

3 Response to May 2010 recommendations

- 3.1 *The Council should ensure that training continues so that staff are competent in the RIPA roles they perform. Formal oversight by the Lawyers to the Council on behalf of the SRO will identify individual and corporate training needs which should be addressed through appropriate one to one discussions and included in training material.*

Completed. Training has been provided and the internal oversight arrangements are sound. Further details are in sections 4-5 of this report.

- 3.2 *The Council is recommended to make amendment to the policy document as detailed to create clarity around its RIPA processes.*

Completed. The RIPA policy is clear and comprehensive. Further detail is at paragraph 4.3.

4 Progress following the last inspection

- 4.1 The inspection had been planned originally for 2 May, but was postponed due to local elections later announced for that day. My inspection began by meeting the Deputy Chief Executive (SRO) and Mrs Simpson, who oversees RIPA business on the SRO's behalf. However, this is for practical oversight and quality assurance, and it was clear from the very detailed discussions with Mr Osgathorpe that he takes his responsibilities seriously.
- 4.2 Following the very helpful explanation of how the Council is changing its whole way of working, both internally and with its local residents, it was explained that the Council Members take a robust approach to the use of RIPA powers, seeing them as a matter of last resort. In practice, EBC can usually tackle issues through an overt approach, in keeping with the new ethos of outward engagement, and indeed, there has been no need to use the powers since the last inspection.
- 4.3 EBC has purchased a RIPA policy and "toolkit" from Act Now training. This is a commercially available document. It provides a very clear and comprehensive outline of the powers and the toolkit contains annotated RIPA forms to assist officers with their completion. Mrs Simpson provided me with a number of documents taken from the Council's "insite" website. This contains all the various guidance documents¹ and links for officers to understand more about RIPA, and includes full contact details for key officers in EBC who can help – from the SRO to the designated Authorising Officers, the legal team, and those officers who had undergone recent RIPA training.

¹ Including documents I read: the RIPA policy and toolkit; Digital Imaging Guidance Note; Employee Monitoring and Surveillance Guide for Managers; Guidance for employees on surveillance in council offices.

- 4.4 There are five key Authorising Officers (as well as senior officers who may be required to so act) and the policy is that an applicant will approach one who is external to their normal business area, to provide real impartiality of approach.
- 4.5 In the absence of any authorisations, I asked how the monitoring officers could assess whether there had been any unauthorised activity. Whilst this is a difficult matter to address, I feel that EBC has some very good systems in place as a check and balance. It has continued with its annual "Managers Assurance Statement", in which all key managers are asked pointedly whether there has been any use of RIPA or covert activity. It also has a Middle Managers Engagement Group that meets regularly, and at which RIPA is discussed. There is also an e-mail group of all Investigating Officers, enabling key messages to be shared and for officers to ask for peer advice from colleagues. Refresher training should also ensure due vigilance.
- 4.6 Council Members are updated annually on use (or lack) of the powers, and I was provided with recent reports. The latest was a very comprehensive briefing on RIPA and also The Protection of Freedoms Act 2012 and enabled adoption of the Council's RIPA policy. The Audit & Governance Committee also receives a quarterly update. The Councillors have also agreed there should be an internal review of all RIPA matters each year, with a thorough review every three.
- 4.7 The Central Record stands ready to be completed once authorisations are used again and is maintained by Mrs Simpson. Any RIPA documentation is stored securely.

5 Training

- 5.1 RIPA training was provided recently by Act Now and attended by the Authorising Officers, the Chief Executive and various Investigating Officers. The SRO was unable to attend (he is currently providing corporate advice to East Sussex County Council two days a week) but had been provided with the documents and key messages after the event. The training had been well received and had been geared to realistic scenarios.

6. Use of the powers

- 6.1 Nil since 2010. I discussed with the various Authorising Officers and applicants the types of case where directed surveillance or use of a CHIS might arise, and the reasons for the lack of any authorisation in recent years. The preferred approach of overt measures and the availability of other means, such as data matching for the benefits cases, suggests there is nothing sinister in the drop-off.
- 6.2 I was able to explore the possibly increased potential for CHIS engagement by EBC in light of its new ways of working, and the appointment of nine Neighbourhood Advisors, whereby residents might provide information direct to council officers in a way they had not in the past. The importance of remaining vigilant as to the provenance of this information was explained, lest a resident meet the criteria for being a CHIS.

6.3 I also discussed the Council's approach to noise nuisance cases (which appears to be the main type of assistance sought from those now responsible for housing in Eastbourne (an arms length management organisation)). Overt written warnings are given prior to any noise monitoring, repeated after three months if necessary. The equipment is deployed for a week at a time to assess levels. It is possible that the equipment has a pre-record facility, which might constitute intrusive surveillance if the complainants are not warned of this capacity, and I advised the officers to check the equipment and determine how best to notify residents during installation.

6.4 Unusually for a local authority, EBC has a very thorough equipment inventory, which I was provided with and able to discuss with its owner, Mrs White, who deals with data protection and FoI issues for EBC, and had attended the recent RIPA training. The register of items includes CCTV cameras covering the EBC estate; noise monitoring devices; personal issue mobile phones, including those with a camera facility; and other cameras. If these are used operationally, a deployment log sheet is to be completed, and I was shown this. It would benefit from the addition of a column to record the RIPA URN should the use be covert. Mrs White also explained her responsibility for a review of the retention and disposal of material held by the Council, which should cover any surveillance product.

7 Magistrate's approval

7.1 There has been no need to seek magistrate's approval yet, but there is good liaison with the local court and the legal team will probably assist officers when the first approvals under The Protection of Freedoms Act 2012 are sought.

7.2 I had a helpful discussion with officers about the potential limitations brought about by the serious crime threshold under the said Act. EBC has considered the matter carefully and has incorporated a briefing to the Cabinet to explain how any covert activity outside the protection of RIPA will be managed (this is also helpfully covered in the RIPA policy document). A non-RIPA form will be used to ensure that Human Rights considerations are made and accountable.

8 CCTV

8.1 EBC only has CCTV cameras observing its premises for security reasons. Town centre systems are managed by the police. It has no capacity at present to install mobile cameras for serious fly tipping, for example, but this is, in any case, investigated through clues in the deposited waste, or warning stickers at the location and increased patrols.

9 Social Networking Sites (SNS)

9.1 I asked about the use of SNS in order to investigate matters such as, for example, living together cases. It was pleasing to be provided with an internal policy document that had been prepared, primarily for the Benefits team, which contained sound advice as per Note 308 of the OSC's current Procedures & Guidance document, which was also included in its entirety. When I spoke to the Benefits officers, they advised they used Google to see whether a claimant had an SNS and if it was open source, they would take a print of the available page(s) and log their activity. I provided the latest thinking of the Surveillance Commissioners about repeated visits to open source sites.

10 Conclusions

- 10.1 Feedback was provided to Mr Cottrill and thereafter to Mrs Simpson. I had last inspected the Council in 2008 and had found an extremely poor state of affairs in terms of RIPA oversight. There have been two inspections between then and now, and it is pleasing to report a wholesale change in approach. Although EBC has not used the powers and cannot therefore be assessed for compliance with them, I have nonetheless found a number of good practices in preparation for its future use, including: excellent availability of a plethora of clear and helpful guidance materials for officers; engaged officers, from the Chief Executive and SRO down; good training provision and internal oversight mechanisms; good surveillance equipment management processes. All this bodes well for any use of the powers in future.
- 10.2 There is no need for any formal recommendation this time, but I would suggest the SRO ensures that the following matters are kept under close scrutiny: the potential for CHIS engagement in the new ethos of EBC; the growth of SNS as an investigative tool; the sensitivity of any noise monitoring equipment and the advice provided to complainants should there be the potential for intrusive surveillance (incapable of authorisation by the Council) by this device.
- 10.3 Finally, I should like to thank all the staff I met in EBC for their input to the inspection.

Clare Ringshaw-Dowle

Surveillance Inspector