



Chief  
Surveillance  
Commissioner



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3<sup>rd</sup> June 2010

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*Dear Miss Wenzel,*

**Covert Surveillance**

On 11<sup>th</sup> May 2010, one of my Inspectors, \_\_\_\_\_ 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 \_\_\_\_\_ report which I endorse. This is the first time your Council has been inspected. As yet, you have made little use of your RIPA powers but this is likely to change soon. I am very pleased to see that you have put in place policies, procedures, guidance and training which \_\_\_\_\_ describes as "of the highest order". This is a sound basis on which to achieve authorisation compliance when covert tactics are employed. I commend the conscientious attitude of your staff.

There are no recommendations.

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*

Miss Erika Wenzel  
Chief Executive  
Cheshire East Council  
Westfields  
Middlewich Road  
Sandbach  
CW11 1HZ



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**Office of Surveillance  
Commissioners**

**OFFICE OF SURVEILLANCE COMMISSIONERS**

**INSPECTION REPORT**

**CHESHIRE EAST COUNCIL**

**11 May 2010**

**Surveillance Inspector:**

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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.

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**OSC/INSP/075**

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

13<sup>th</sup> May 2010

## **OSC INSPECTION REPORT – Cheshire East Council**

### **1 Date of Inspection**

The inspection took place on Tuesday 11<sup>th</sup> May 2010.

### **2 Inspector**

### **3 Introduction**

- 3.1 Cheshire East Council was created in April 2009 and comprises the former borough councils of Congleton, Crewe and Macclesfield and the eastern half of the former Cheshire County Council. The new council has taken over all the functions of the precursor authorities. It employs approximately 14,500 staff and serves a population of approximately 360,000.
- 3.2 The Corporate Management Team comprises the Chief Executive, Strategic Director People, Strategic Director Places, Borough Solicitor and the Heads of Human Resources, Policy and Performance and Borough Treasurer (who is also Head of Assets).
- 3.3 During the short life of the council there has only been one authorisation granted, for Directed Surveillance. This case did not involve the acquisition of confidential information and I was not informed of any breaches.
- 3.4 The Chief Executive of Cheshire East Council is Miss Erika Wenzel, Westfields, Middlewich Road, Sandbach, CW11 1HZ.

### **4 Inspection Approach**

- 4.1 This one day inspection commenced by meeting with the Chief Executive and Vivienne Quayle, Internal Audit Manager. We discussed the formation of the

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new council and their response to the new provisions contained in the revised Codes of Practice. It was explained to me that the low usage of the powers available under RIPA was due to the problems associated with such a large scale re-organisation rather than any reluctance to employ covert tactics in their enforcement activities.

- 4.2 I then met with Councillor David Brown, who is the portfolio holder for RIPA related matters. He has regular briefing regarding RIPA policy, training and usage. He accepted that his role did not involve making decisions regarding specific authorisations.
- 4.2 I also met with Chris Chapman, Borough Solicitor, who is the appointed 'senior responsible officer'; Sandra Smith, Compliance Unit Manager, whose staff have day to day oversight of RIPA processes and provide a central point of contact for advice; Rose Raine, Compliance Officer, who maintains the Central Record of authorisations and quality assures applications and authorisations; and Lorraine Rushton, Benefit Fraud Manager, who provides all RIPA training within the council. We discussed the main authorisation and oversight arrangements, the training provided to council staff and I gave feed-back on the policy documents and training material that I had been sent prior to the inspection visit.
- 4.3 I examined the format and contents of the Central Record of authorisation and the one authorisation granted. Again, feed-back was provided.
- 4.4 Later, I met with the following authorising officers and enforcement staff. We discussed the enforcement activities of the various departments represented and their use of covert tactics. I informed them of the failings frequently found in RIPA authorisations:
- John Weeks – Strategic Director People
  - John Nicholson – Strategic Director Places
  - Lisa Quinn – Borough Treasurer
  - Lorraine Butcher – Head of Services for Children and Families
  - Phil Lloyd – Head of Services for Adults
  - Peter Hartwell – Head of Safer and Stronger Communities
  - Tony Potts – Head of CCTV/Licensing
  - Deborah Ackerley – Planning
  - Kay Roberts – Trading Standards
  - Tracey Bettaney – Environmental Health
  - Claire Mellody – Housing Benefits
  - Kate Khan – Legal Services
- 4.5 At the conclusion of the inspection I met with Chris Chapman and Sandra Smith and provided them with feed-back on the main findings of the inspection.

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### 5 Review of Progress Against Previous Recommendations

This is the first inspection of this council.

### 6 Policies and Procedures

6.1 As mentioned previously, I had examined all the Council's relevant policy and guidance documents prior to the inspection visit and provided feed-back on them during my visit. They comprised the following:

- i. *Surveillance Under RIPA – Policy and Procedure*: this document sets out the context and Human Rights aspect of the policy. It includes all the main definitions and internal procedures, including oversight. It provides accurate advice but will need some additions to reflect the changes in the revised Codes of Practice. This latter point was recognised but emendation had been delayed to incorporate any learning points from this inspection.
- ii. *CCTV Manual*: a comprehensive description of the use and control of the system and management of recorded material. There are appendices relating to the Human Rights Act and guidance on use in circumstances whereby a RIPA authorisation may be appropriate.
- iii. *Protocol For Use of CCTV in Covert Policing*: this is currently in draft, awaiting ratification following OSC comment. It provides basic guidance on RIPA and describes the procedure to be adopted if the system is to be used under a RIPA authorisation. The procedures are compliant and sound.
- iv. *RIPA Training and Information Pack*: This is a most comprehensive compilation of the training presentation, practical exercises, copies of council policies, forms with guidance notes and numerous other relevant documents such as the OSC Procedures and Guidance and new Codes of Practice. It is available to practitioners via the Council intranet system.

6.2 The above material provides an extremely helpful and comprehensive policy and guidance regime for practitioners.

6.3 The process for applying for and obtaining authorisation is that applicants complete the relevant forms, obtained via the Home Office site. When completed they will be forwarded to the Compliance Officer who will quality assure the contents and commence an entry in the Central Record before returning the forms to the applicant. (This will only occur if timing of an operation permits but is nonetheless in my opinion a good practice that is often lacking in local authority procedures.) The applicant will then forward the application to an Authorising Officer for completion. When this has been done, the original documents will be forwarded to the Compliance Officer for secure retention and full completion of the Central Record entry. If there are any problems with the Authorising Officer's input, the matter will be raised

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with the Borough Solicitor for him to address with the officer concerned. Subsequent submissions are will be dealt with in a similar manner.

- 6.4 There are currently five authorising officers (including the Chief Executive) all of whom have received training and been formally appointed. This seems to be an appropriate number, given the size and structure of the Council.
- 6.5 There is a nominated councillor, referred to above, with particular responsibility for the dynamic oversight of RIPA within the Council. In addition there will be detailed annual reports to the Scrutiny Committee. The 'senior responsible officer' is the Borough Solicitor and he takes an active role in the strategic oversight of RIPA usage, training and quality assurance. These arrangements, albeit in their very early stages, appear to be compliant with the requirements of the revised Codes of Practice.

## 7 Inspection Findings

### Central Record and Oversight

- 7.1 The Central Record of authorisations is in the form of a hard copy register and the maintenance of it is the responsibility of an identified Compliance Officer. It contains all the information required by the Codes of Practice. This officer and others within the Compliance Unit, provide a point of advice for council staff.
- 7.2 The process whereby applications are quality assured before submission to an authorising officer should assist in ensuring that the contents are relevant and of a good standard. It is recognised that there may be instances where time will not permit this to take place but this should be an exception rather than the rule. The 'senior responsible officer' will have regular oversight of the Central Record and may be involved in rectifying mistakes/failings by authorising officers (as described previously).

### Directed Surveillance

- 7.3 This is the only form of covert activity that has been authorised by the Council since its inception and there has only been one such authorisation. The reasons for this lack of use are varied but are predominantly linked to the disruption caused by the re-organisation. It was apparent that in the near future there will be greater usage as more resources become available. There was certainly no perceptible reluctance to employ covert tactics but there was a clear understanding that less intrusive means should be tried or considered first.
- 7.4 The one authorisation granted was examined and in most aspects was of a very good standard. The only comment I would make is that the Authorising Officer's statement of the covert activity was somewhat lengthy and rambling. A clear and succinct description based upon what is being sought, and



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considered necessary and proportionate, would be better and clearer to those charged with conducting the surveillance.

7.5 In all other aspects, I was impressed by the contents but the test for the Council is to maintain this standard when more authorisations have been processed.

7.6 I was asked a question regarding recent LACORS advice contained in their *Practical Guide to Test Purchasing (March 2010)*. One paragraph states;

‘Clearly, in test purchase operations, where it is the view of the manager and authorising officer that it is not likely to result in the obtaining of private information and no relationship will be established then RIPA authorisation is not required.’

I was informed that this advice is being interpreted as meaning that even if an operative is in premises observing the test purchase then an authorisation will not be required. I pointed out that this conflicted with the advice contained at paragraph 253 of the OSC Procedures and Guidance - albeit that the above quoted paragraph was strictly speaking correct. This was accepted by the staff concerned.

### Training

7.7 There have been several training events conducted by Lorraine Rushton for both authorising officers and applicants. The content of the training sessions and the accompanying information packs are both accurate and comprehensive. In the group discussion session of the inspection visit I was most impressed by the informed debate with the attendees. This is no doubt a reflection of the excellent training being provided and the challenge for the Council will be to maintain this level of provision in the future.

## 8 Conclusion

8.1 For the reasons stated above Cheshire East Council have made little use of the powers vested under the Regulation of Investigatory Powers Act 2000. It is envisaged that this situation will change in the near future.

8.2 The policies, procedures, guidance and training put into place by the Council are of the highest order and should enable a compliant use of RIPA. Much of the inspection was of a ‘theoretical’ nature and the challenge for the Council will be to ensure that the practical employment of covert tactics and the content of RIPA authorisations are commensurate with the solid foundations that have so far been put into place. I was certainly most impressed by the conscientious attitude of all the staff that I met.

8.3 I have no recommendations to make and would hope that this situation will be sustained after a period of more frequent use of covert activity.

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- 8.4 I would like to pass my appreciation to all the staff that I met for their co-operation and courtesy. Particular thanks should be passed to Rose Raine who made all the arrangements for the inspection visit and provided me with the pre-read material, also Sandra Smith who hosted me for the day.

Surveillance Inspector