



Office of Surveillance  
Commissioners



Chief  
Surveillance  
Commissioner

**Official -Sensitive**

14 March 2017

### OSC Inspection

Dear *Chief Executive,*

I enclose a copy of the report dated 2 March 2017 prepared by Mr Graham Wright, Surveillance Inspector, following his inspection of the arrangements made by the Council to secure compliance with the statutory provisions governing the use of covert surveillance which fall within the responsibilities of the OSC.

I have studied the report and endorse it.

Dealing with it generally, this is a positive report, which records that the specific recommendations made following the last inspection in 2014 have been addressed and completed. Nevertheless a number of potential vulnerabilities are identified, and they are discussed in some detail in the report. Just because Mr Wright believes that those with RIPA responsibilities within the Council take their responsibilities very seriously and seek conscientiously to discharge them, rather than set out a significant number of specific recommendations, he has included a number of suggestions which, when adopted, would reduce vulnerabilities and improve standards. Like him, I believe that they will be addressed conscientiously. I therefore agree with this approach, and do not propose to discuss them any further.

There is a single specific recommendation. It relates to the use of social networking sites. I understand that during the course of the OSC inspection in 2007, the Council was told that the statutory provisions were not available and should not be used in the context of child protection. Unsurprisingly, the Council has followed this advice. There has been and now is a degree of uncertainty about when and in what circumstances the statutory provisions apply.

The advent of social media sites and the Internet has produced a remarkable social change, which at least in part is reflected in the context of covert surveillance. The Council has responsibility for the welfare of children and indeed vulnerable adults. Social media sites are available for use as part of an investigative process. The consequent issues have been considered in depth by the OSC.

We recognise the potential value of such investigations, particularly in the context of the responsibility of the Council for the safety and welfare of children and vulnerable adults. Many such investigations come to a natural end without any concerns, and just because the investigation has been directed to what the individual in question has chosen to expose about himself or herself there has been no interference with privacy. However on occasions it may become appropriate for the investigative process into a particular individual or individuals to be repeated or continue in some depth simply because concerns start to arise about criminal offences like cruelty abuse and neglect. That is when the investigative process itself may start to fall within the RIPA provisions. When it does the necessary RIPA processes are required.

The problem which arises in authorities throughout the country is that conscientious officials, acting in good faith to discharge their caring responsibilities, may not realise that investigations through social media sites can fall within the protective statutory ambit. They cannot know what they do not know. What is needed is for them to be made aware of the circumstances in which such activities, if unauthorised, would become unlawful. It would not be a defence for them to say that they had not appreciated that they were acting unlawfully, and the Council would be liable for their unlawful activity.

This is the issue to which the recommendation at paragraph 10 is directed, and it is explained in some detail at paragraphs 6.1 (iv) The Policy document should be updated to reflect the OSC guidance at paragraph 289, on these issues, and then disseminated among Council staff so that those using social media sites are aware of where they stand.

Yours sincerely,



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