



Investigatory Powers  
Commissioner's Office

## Inspection Report – North East Derbyshire District Council and Bolsover District Council

### Inspection report ref 075

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#### 1 Introduction

1.1 The most recent inspection of North East Derbyshire District Council (NEDDC) and Bolsover District Council (BDC) was conducted by HH Brian Barker, Assistant Surveillance Commissioner, on the 17 November 2015.

1.2 The Strategic Alliance formed in 2011 remains extant with a single Chief Executive. A management restructure has aligned the two supporting Joint Executive Directors under new directives of People and Places. The ten Joint Assistant Directors have been reduced to eight Joint Heads of Service. Sarah Sternberg, Joint Head of Service, Corporate Governance remains the Senior Responsible Officer.

- 1.3 This inspection took place at the headquarters of the NEDDC on the 14 March 2019 and was conducted by Mrs Samantha Jones, Inspector.
- 1.4 This report is addressed to the Chief Executive, Dan Swaine, whose address for correspondence is District Council Offices, Mill Lane, Wingerworth, Chesterfield, Derbyshire. S42 6NG. His email address is: [chexbdc&neddc@ne-derbyshire.gov.uk](mailto:chexbdc&neddc@ne-derbyshire.gov.uk)

## 2 Inspection methodology

- 2.1 This inspection has been conducted to assess the level of compliance in respect of the use and management of covert directed surveillance and covert human intelligence sources (CHIS) under the provisions of Part II the Regulation of Investigatory Powers Act 2000 (RIPA).
- 2.2 In the period since the last inspection, NEDDC and BDC has not exercised its RIPA powers in respect of directed surveillance or CHIS. Should this pattern continue over the next three years, it is recommended that a desktop or remote assessment is appropriate rather than a personal inspection.
- 2.3 During the inspection, initial discussions were held with Sarah Sternberg and two members of her staff, Governance Manager Nicola Calver and Senior Governance Officer Donna Cairns. My thanks are also extended to them for arranging and facilitating the inspection process.
- 2.4 The initial meeting was followed by two separate focus groups. The Authorising Officers comprising Dan Swaine, Chief Executive, together with Karen Hanson and Lee Hicken, who are the Joint Executive Directors, and secondly the potential applicants, Environmental Health Manager Sam Bentley, together with Planning Enforcement Officers Paul Johnson (NEDDC) and Richard Scott (BDC).

## 3 Key findings

### 3.1 Recommendations

- 3.1.1 **Non-RIPA authorisations.** Process should be reviewed to ensure that the necessity, justification and proportionality arguments of conducting non-RIPA surveillance are adequately recorded, together with any collateral intrusion minimised appropriately and that oversight by the SRO should be conducted on a quarterly basis, to ensure Elected Members are suitably informed of any such activity.
- 3.1.2 **Social Media and Internet Investigations.** Prior to any use of on-line surveillance, the introduction of suitable control measures, such as maintaining a register of covert identities used, by whom and for what purpose. Training, guidance and a robust audit process should ensure that the relevant authorisations are in place where appropriate.

## 3.2 Observations

3.2.1 Minor recommended revision to the RIPA policy covered in Section 5 of this report.

## 4 Actions taken on previous inspection recommendations

4.1.1 In his inspection report of November 2015, Assistant Commissioner HH Brian Barker made two recommendations.

4.1.2 *Recommendation 1 - Amend the draft Policy and Procedures document where appropriate.*

4.1.3 The required amendments have been made. Recommendation discharged.

4.1.4 *Recommendation 2 – Ensure continued levels of awareness of potential and pitfalls of RIPA to Councillors through regular reporting; and to officers and staff through the active use of the internal intranets.*

4.1.5 Councillors are updated on a yearly basis, as a minimum, through the Standards Committee and the Strategic Alliance Joint Committee. The two individual Council internal intranets have been merged to create the “extranet”, which houses the relevant policies and procedures for staff to view. Recommendation discharged.

## 5 Inspection findings

### 5.1 RIPA Policy

5.1.1 As per the previous recommendation, and having taken into consideration the new codes of practice for both surveillance and CHIS, revised in August 2018, the RIPA corporate policy and procedures guidance has recently been revised. It is a comprehensive and well written document. Minor amendments in relation to CHIS were suggested to include within safety and welfare, the on-going duty of care following cancellation of a CHIS, and the acknowledgement of potential risk should there be a requirement to disclose information in proceedings. Also, a reference to SI 2000/2725 regarding the maintaining of source records would be of benefit.

### 5.2 RIPA Training

5.2.1 There are currently four designated Authorising Officers, three of whom have recently received in-house training in February of this year as part of a RIPA refresher briefing to the Strategic Alliance Management Team. The fourth is due to leave the Council at the end of this month, and the new Authorising Officer, once appointed, will also be briefed. Two of the three trained Authorising Officers have also authorised RIPA activity in their previous roles with other Councils. The refresher briefings were undertaken by the Senior Governance Officer, who together with the Governance Manager have undertaken external training conducted by Browne Jacobson Solicitors

and on-line training with ACT in 2018 (two Planning Enforcement Officers and a Council Lawyer also attended the external training). The Senior Governance Officer has also provided the refresher briefing at the Service Managers Forum and conducts one to one refresher training to enforcement officers when necessary. It is expected that this will continue on an annual basis. All council employees also have access to policy and guidance documents on the extranet and can call upon the Governance Team.

### 5.3 Non-RIPA activity

5.3.1 Although NEDDC and BDC has not used its RIPA powers for a number of years, it utilises cameras to identify those individuals suspected of environmentally-damaging fly-tipping and those causing anti-social behaviour. Whilst the vast majority of these investigations are conducted overtly with appropriate signage, discussions were held as to what control measures the Council has in place to ensure status drift into the covert arena was captured. Both the Environmental Health and the Housing Department hold their own database of camera equipment which are capable of being used covertly. While it is unlikely that these investigations would meet the 'serious crime' threshold to allow for a directed surveillance authority to be applied for, the same considerations for non-RIPA activity should be given prior to any deployment of equipment. The Service Manager has oversight of when and where the equipment is deployed, and although no records were inspected at the time, the Service Manager confirmed the database includes the date and time the equipment is deployed, duration and return, feasibility of deployment and the reasoning as to why the use of the equipment is justified, including where any request is rejected.

**Recommendation:** That process should be reviewed to ensure that the necessity, justification and proportionality arguments of conducting non-RIPA surveillance are adequately recorded, together with any collateral intrusion minimised appropriately and that oversight by the SRO should be conducted on a quarterly basis, to ensure Elected Members are suitably informed of any such activity.

### 5.4 Social Media and Internet investigations

5.4.1 The RIPA corporate policy and procedures guidance includes the use of the internet and social media although attention was drawn to Sections 3.10 - 3.17 of the revised Covert Surveillance Code of Practice which provides helpful and up-to-date guidance.

5.4.2 There is access to the internet through both Councils' networked computers, although access to social media sites is restricted to those with due cause. A list of personnel with access to social media is retained within the IT department(s).

5.4.3 A subsequent discussion with the Chief Executive and the two Joint Strategic Directors raised two issues. The first highlighted the potential need for the use of social media in certain investigations, for example advertisements for animal breeders/boarders following the introduction of new government regulations, and the second highlighted the risk of personnel safety if, by the lack of access to social media via council owned

computers utilising covert profiles, staff were possibly using their own personal devices and profiles to view sites linked to ongoing investigations.

- 5.4.4 The decision to permit investigators to conduct online surveillance or act as covert human intelligence sources to manage the acquisition of such intelligence and evidence is one for the Council to take.

**Recommendation:** If agreed, the corporate policy should be adapted to introduce suitable control measures, such as maintaining a register of covert identities used, by whom and for what purpose. Training, guidance and a robust audit process should ensure that the relevant authorisations are in place where appropriate.

## 6 Conclusion

- 6.1 It is quite some time since NEDDC and BDC exercised the use of the powers permitted under RIPA, due to several factors but predominately by a greater emphasis being placed on overt enforcement activity and partnership working. Nonetheless, the necessary personnel and processes remain in place to secure authorisation for directed surveillance or CHIS if required.
- 6.2 Both Councils benefit from the knowledge of the Governance Team(s) headed by the SRO who can highlight where action is required to improve compliance and to deliver training as and when required.

**Samantha Jones**  
**Inspector**