

Summary of response to Inspection recommendations

1. That the Council's RIPA policy be amended and updated.

The inspection report refers specifically to the need to maintain a record of covert profiles and on-line pseudonyms for oversight purposes, that this is checked regularly and that assurance is given that the profiles are used correctly and in accordance with authorisations. This is fully accepted and the relevant changes to the policy and to relevant practice within the Trading Standards service will be made.

2. That the structure of deputed officers be revised

This and previous inspections have commented on the cross-over of the roles of SRO and Authorising Officer within the Council. As is again acknowledged the practice of these roles being carried out by one person is not precluded by the guidance, just not recommended. It has not caused any issues to date and the importance of the issue is not underestimated but, given the very low levels of activity and the limited scope of the use of investigatory powers and the need to make use of the expertise and familiarity with the policy and the statutory framework within the officers in these roles it is not felt to be necessary to make this change at this time. The Council will continue to keep this arrangement under review and will include it as an item for the independent review referred to further below. The Council will act on any recommendation from that review.

It has however been noted that the current list of authorising officers needs to be updated to take account of internal changes and the need to identify officers with the relevant capacity to hold the knowledge of the policy and legal framework for the use of RIPA powers will be looked at in the process of revising the list of responsible officers.

3. That a RIPA training session be organised soon

The Council can confirm that a RIPA training course, including coverage of CHIS, has been arranged for 8th July 2022 which around half the Trading Standards staff will attend. A second date is being arranged for remaining staff, likely to be 19th July. This has been timed to cover the forthcoming changes to the CHIS Code of Practice. The course will be directed at both practitioners and managers

4. That the central record of authorisations be made complete

The RIPA policy outlines that a Central Record of Authorisations will be maintained by Director of Law and Assurance (para 15.3). There should be no gaps in these records although some gaps in elements of the record were identified. These will be corrected and, for future arrangements, additional checks will be made to ensure that the information held in the central record aligns with that held in the relevant services and is complete. I can confirm however that the gaps identified indicate errors in recording or data transfer rather than gaps in securing the necessary authorisations or other required steps.

5. To ensure that applications provide thorough non-formulaic assessments

This recommendation is accepted. In future the applicant will be required to ensure that each application avoids an approach which is formulaic in nature and drawn from previous examples. In particular it will be ensured that the case specific assessment of necessity and proportionality is addressed as per para 3.6 of the revised Code. Paragraphs 7.15 to 7.20 of the revised Code covers off the requirement for a meaningful assessment to be made for each application, and again for future procedures the applicant will be required to ensure that this is not formulaic in content.

6. CHIS training specific for Trading Standards officers

As set out in response to 3. above all staff from Trading Standards will be going through RIPA refresher training in July of this year and this will include CHIS. If a member of staff is required to act as a CHIS before that time they will receive a specific refresher on their role as a CHIS by the Applicant.

7. Combining roles of applicant handler and controller and audit of activity

In order to ensure compliance with the revised Code and the recommendation on this issue within the inspection it is proposed that the officer will be considered the CHIS, the officers line manager will be considered the Handler and the Head of the Trading Standards Service will be brought into the process and considered the Controller, the Director of Law and Assurance continuing to act as the Authorising Officer. This will mean that the applicant and the officer are the same person but this appears to be in line with the Code.

Before further use is made of a CHIS the Head of Trading Standards will undertake a review of the CHIS process to take on the Controller role and will take on responsibility for the audit of CHIS case work during scheduled time with team managers.

8. A review of the management function and oversight of the use of CHIS powers

It is hoped that the measures set out in response to the issues raised above should sufficiently address the matters raised in the recent inspection but the Council also agrees that a measure of additional independent oversight would be beneficial. It is therefore proposed that the Council's internal audit service, aided by advice from the Council's legal service be commissioned to undertake the suggested review. The findings and any recommendations from such a review would be presented to the Council's Regulation Audit and Accounts Committee which carries responsibility for the oversight of the Council's regulatory functions. It is felt that this exercise and its consideration by members of the Committee will also raise the corporate profile of and provide transparency to the use of the Council's RIPA policy.

9. Review of the retention review and deletion of records

The Trading Standards service is currently in the process of implementing a new database which incorporates work flows. During the progressive development of the database it is proposed that the RIPA paperwork will be incorporated into the workflows and therefore data retention and deletion arrangements will become automated according to set parameters. It will however be added to the brief for the internal audit review of the functioning and management of the powers and that the senior responsible officer is able to have the necessary assurance for the effectiveness of the arrangements.

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