



Chief
Surveillance
Commissioner

OFFICIAL-SENSITIVE

17th December 2014

Dear Mr. Clark,

RIPA AND UNDER AGE SALES TEST PURCHASING

Thank you for your letter dated 17 November about the Code of Practice on Age Restricted Products issued by the Better Regulation Delivery Office (BRDO) in January 2013.

The inclusion in this Code of an extract from the OSC's 2011 Procedures & Guidance document (Note 262) has presented you with a dilemma, as its incorporation into the BRDO's Code of Practice renders, in your view, the guidance of the Surveillance Commissioners a recommendation with which you must now comply.

Whilst the Code is non-statutory, you have taken the view that your Council ought not to authorise test purchase activities unless "overt methods have been attempted and failed".

I have considered the matter and our updated Procedures & Guidance document, due to be issued by the end of 2014, will contain a slight amendment to what will be, in the updated version, Note 244, as follows:

*When conducting covert test purchase operations at more than one establishment, it is not necessary to construct an authorisation for each premise to be visited but the intelligence must be sufficient to prevent "fishing trips". Premises may be combined within a single authorisation provided that each is identified at the outset. Necessity, proportionality, and collateral intrusion must be carefully addressed in relation to each of the premises. It is unlikely that authorisations will be considered proportionate without demonstration that overt methods have been **considered or attempted and failed**.*

This reflects the definition of proportionality contained within the Home Office Codes of Practice and I hope will provide you some reassurance that such activities, where deemed to be necessary and proportionate on a case by case basis, can be authorised.

I am copying this letter to the BRDO so that they might update their Code if they feel it appropriate.

*Yours sincerely,
Christy Lee Rose*

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