



PO Box 29105, London, SW1V 1ZU

Ms Lorraine O'Donnell
Chief Executive
Cheshire East Council
By email

5 December 2022

Dear Ms O'Donnell,

IPCO Surveillance and CHIS Inspection of Cheshire East Council

Please be aware that IPCO is not a "public authority" for the purpose of the Freedom of Information Act (FOIA) and therefore falls outside the reach of the FOIA. It is appreciated that local authorities are subject to the FOIA and that they may receive requests for disclosure of our reports. In the first instance the SRO should bring the matter to the attention of the IPCO Data Protection Officer (at: info@ipco.org.uk), before making any disclosure. This is also the case if you wish to make the content of this letter publicly available.

Your Council was recently the subject of an inspection by [REDACTED], who examined your use of powers under Part II of the Regulation of Investigatory Powers Act 2000 (RIPA) in relation to directed surveillance and CHIS. This process was facilitated by the Senior Responsible Officer (SRO) for RIPA matters, David Brown – Director of Governance and Compliance and Monitoring Officer. Also present was Julie Gibbs - Information Rights Manager and Data Protection Officer (and RIPA Compliance Officer), Josie Griffiths - Head of Audit and Risk, and Rick Hughes – Trading Standards (and RIPA Training).

Cheshire East Council was last inspected during October 2019 which resulted in a number of actions. The most critical of these related to the quality of authorisations granted for directed surveillance; specifically, the need for Authorising Officers to articulate why they believe the proposed surveillance to be necessary and proportionate. I understand that your Council has used RIPA powers to authorise directed surveillance once since the last inspection, and this concerned a test purchase operation concerning the underage sale of prohibited goods. [REDACTED] has examined the application, authorisation and cancellation documents and found them to be of a high standard. [REDACTED] was content with the level of detail provided by the AO and noted that your authority has complied with the guidance contained within paragraph 3.33 of the Covert Surveillance and Property Interference Code of Practice (2018). Further action points concerning the need to update the RIPA policy have been completed, allowing all outstanding action points to be discharged.

With regard to the RIPA and social media policies and the plan to revise them in due course, it is suggested that the following paragraphs be reviewed and amended for clarity:

- 5.11 – it is not just 'good practice' for Council Members to undertake a formal scrutiny role in respect of the use of RIPA powers and corresponding policy, it is a legal requirement, as set out in paragraph 4.47 of the Covert Surveillance and Property Interference Code of Practice (2018).

- The retention period of entries on the Central Record of authorisations set out in paragraph 6.8, differs to that relating to investigation records which may include RIPA material, as per paragraph 6.2. It would seem sensible to align these periods in order to perform a single comprehensive review of case material.
- Paragraphs 3.6, 3.7 and 6.2 are somewhat contradictory and do not always align with the guidance contained within the Covert Surveillance and Property Interference Code of Practice (2018).
- The OSC Guidance (as cited at the end of the social media policy) has been withdrawn in favour of the updated Code, and should no longer be referred to.
- I note that the list of nominated Authorising Officers is to be updated in accordance with staffing changes and training requirements.

It is pleasing to see that RIPA awareness training has been delivered to key personnel since the last inspection and that there are further courses planned for early 2023. The use of RIPA powers by local government continues to be low, but it is important to maintain the necessary knowledge and processes should the need arise. The use of operational scenarios as outlined in your course material is a helpful way of developing skills, however it is advised that the amended application forms now available on the Home Office website be used, as they have been updated to remove references to the urgency provisions no longer in use by local authorities (<https://www.gov.uk/government/collections/ripa-forms--2>).

██████████ was content with the arrangements the Senior Responsible Officer has in place to maintain his oversight of the use of RIPA powers, and was impressed by the knowledge of your RIPA Co-ordinator, Ms Gibbs. It was noted that she is responsible for updating and maintaining the Central Record of authorisations on the Council's behalf and plays a key role in the functioning of the RIPA system.

The matter of data assurance and the requirement to have a robust system of retaining, reviewing and deleting RIPA material was also discussed. As I have already mentioned in relation to the RIPA policy, differing retention periods are specified for RIPA case records and entries to the Central Record. It is important that any review process is sufficiently joined up, to ensure that all relevant material is assessed to ensure that no records are missed and retained unnecessarily. I would be grateful for an update on how this may be resolved in your response to this letter.

Paragraph 4.47 of the 2018 Covert Surveillance and Property Interference Code of Practice requires that Elected Members be provided with a regular update on the use of RIPA powers and the Council's policy. I am pleased to see that regular communication concerning the use of RIPA powers is made to Members of the Council via the Audit and Governance Committee through the Monitoring Officer's reporting mechanism. It is pleasing to hear that Council Members play an active role in scrutinising RIPA processes.

I hope that you and your colleagues have found the inspection process helpful in focusing on what activity must be undertaken in order to maintain compliance and readiness to use RIPA powers. If you require any further assistance or wish to provide feedback, my Office is available to you; otherwise I would ask you respond to this letter within two months of receipt.

I look forward to hearing from you.

Yours sincerely,



The Rt. Hon. Sir Brian Leveson
The Investigatory Powers Commissioner