

ITEM

REPORT TO CABINET

17 MARCH 2022

REPORT OF DIRECTOR HR, LEGAL & COMMUNICATIONS

**INVESTIGATORY POWERS COMMISSIONERS' OFFICE (IPCO) INSPECTION –
REGULATORY INVESTIGATIONS POWERS (RIPA) ACT 2000**

SUMMARY

This report provides details of the inspection arrangements and outcome of a recent programmed inspection of the use of covert and directed surveillance in accordance with the provisions of the RIPA Act 2000. The Council demonstrated a good level of compliance.

RECOMMENDATION

- Note the report and outcome.
- Approve the recommendations from the Investigatory Powers Commissioners Office detailed within the report.

DETAIL

1. Legislation requirements alongside greater access to data matching, transparency, overt rather than covert law enforcement, has led to local authorities granting far fewer RIPA authorisations; this continues to be the case here in Stockton on Tees. With this in mind and with current Covid restrictions, the IPCO have adopted a more flexible approach to inspections of local authorities with the option of a remote assessment and examination of relevant documentation, obviating the need for a site visit by a Surveillance Inspector.
2. The IPCO notified the Council in November 2021 that it was due its programmed inspection of the use of covert surveillance in accordance with the provisions set out in the RIPA Act 2000. The previous inspection was undertaken in September 2018.
3. Inspection requirements included the submission of the key documents for consideration in advance of an interview with the Council's Senior Responsible Officer, the Director of HR Legal and Communications, which took place in January 2022. Documentation included:
 - The Council's RIPA Policy
 - An update/ progress on actions following the previous inspection in 2018
 - The Council's Governance arrangements for RIPA
 - Copies of most recently completed authorised CHIS/ DS paperwork, redacted accordingly.
 - Training records / demonstration of awareness of officers working with RIPA policy / procedures.
 - Evidence of retention/ destruction audits following recent guidance issued by the IPCO on safeguarding confidential data.

FINDINGS

4. After consideration of the submitted documentation and a helpful and constructive discussion with Mr Graham McCrory MBE, working on behalf of the Investigatory Powers Commissioners Office, the Inspector concluded that the authority had demonstrated a good standard of knowledge, application and governance; a level of compliance that removed the need for a full onsite inspection. A copy of the inspection outcome is attached at Appendix 1.
5. The inspection outcome is positive with recommendations as follows:
 - Ensure that Retention, Review and Destruction (RRD) of gathered data under the covert powers available, is carried out and that the Policy makes clear the RRD requirements, responsibilities and practice within the council.
 - Training scheduled is undertaken and regular training continues to be planned and delivered to ensure continued development and awareness of officers.
6. These recommendations are already in progress and will be monitored through the Councils RIPA Steering Group and Corporate Governance group. Planned training has been undertaken this month and a programme of additional training is in place. The review of RRD is underway.
7. Cabinet will continue to receive an annual report on RIPA arrangements and authorisations.

COMMUNITY IMPACT IMPLICATIONS

8. There is no requirement for an assessment in relation to this report.

FINANCIAL AND LEGAL IMPLICATIONS

9. None as a direct result of this report.

10. RISK ASSESSMENT

11. Existing management/operational systems and procedures are sufficient to control and minimise the risk to low to medium status.

COUNCIL PLAN POLICY PRINCIPLES AND PRIORITIES

12. Organisational and operational effectiveness.

CORPORATE PARENTING IMPLICATIONS

13. There are no corporate parenting implications arising directly from this report.

CONSULTATION

14. No consultation has taken place regarding this report.

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Investigatory Powers
Commissioner's Office

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Ms. Julie Danks
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12 January 2022

Dear Ms. Danks

Inspection of Stockton-on-Tees Borough 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 a video and desktop-based inspection by one of my Inspectors, Mr. Graham McCrory MBE. This has been facilitated through your Senior Responsible Officer (SRO) and Director of Human Resources, Legal and Communications, Ms. Beccy Brown. My Inspector is also grateful to Ms. Kate Fulton, Data Protection Officer and Information Governance lead, for providing the supporting information required.

The information provided has demonstrated a level of compliance which removes, for the present, the requirement for a physical inspection.

The last inspection was undertaken by IPCO Inspector Mr. Paul Donaldson, in January 2019. On this occasion no recommendations were necessary.

Two authorisations have been granted since the last inspection, one for the deployment of a Covert Human Intelligence Source (CHIS) and one for directed surveillance. Both authorisations were viewed by my Inspector and found to have been satisfactorily formed, albeit advice has been provided by my Inspector to improve slightly the standard of future authorisations, which I hope you found helpful and will fully embrace.

Training has been undertaken by applicants and authorising officers with further ‘face to face’ training scheduled to take place, current pandemic permitting, later this month.

The oversight provided by your SRO is of a good standard and is undertaken through your RIPA Steering Group and its connection to the Corporate Governance Group.

Your RIPA policy was updated in September 2021 and, as found during the previous inspection, is well formed. That said, a specific focus for the inspection was the retention, review, and destruction (RRD) of data gathered utilising the covert powers available. Whilst your policy has sections allocated to advise on the management of records (sections L and M), my Inspector has advised that your policy should carry clear instructions on the need to undertake RRD of covertly gathered material and to comply with the safeguarding chapters within each code of practice. I hope the advice of my Inspector was helpful in identifying the minimum requirements in this regard.

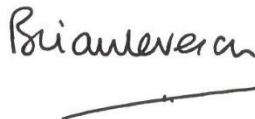
Whilst my Inspector is satisfied that this matter will be promptly attended to, this area of compliance will continue to be focused upon in future inspections. Highlighting RRD responsibilities to new staff and weaving this into your refresher training inputs will ensure those persons likely to engage the covert powers are fully au fait with the safeguarding requirements.

Your authority has been found to be in a good place and I hope both Ms. Brown and Ms. Fulton have found this inspection to be of benefit.

My Office is available to you should you have any further queries following this inspection, or at any point in the future. Contact details are provided at the foot of this letter.

I shall be grateful if you would acknowledge receipt of this letter within two months.

Yours sincerely,

A handwritten signature in black ink that reads "Brian Leveson". The signature is written in a cursive style and is positioned above a horizontal line.

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