



Investigatory Powers
Commissioner's Office

PO Box 29105, London, SW1V 1ZU

Mr James Hassett
Chief Executive
Arun District Council
By email

17th March 2023

Dear Mr Hassett,

IPCO Surveillance and CHIS Inspection of Arun District 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.

On the 13 March 2023 your Council was 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 Covert Human Intelligence Sources (CHIS). This process was facilitated by the Senior Responsible Officer (SRO) for RIPA matters, Daniel Bainbridge - Group Head of Law & Governance.

Arun District Council was last inspected just over three years ago during December 2019, which resulted in a single recommendation concerning the need to provide RIPA training to key personnel. It was therefore pleasing to hear that refresher training was recently delivered to a wide range of personnel, including you in your capacity as a potential Authorising Officer for Juvenile/Vulnerable sources. I hope you and your colleagues found this an informative experience and feel you are equipped with the knowledge required should you need to use RIPA powers.

I understand that it is a matter of years since Arun District Council last chose to use RIPA surveillance or CHIS powers. You may be interested to know that this is consistent with the picture of use that we see among other local authorities of a similar size. Nonetheless, it is important that the capability is there should you need it. I understand that the SRO Mr. Bainbridge has been in post since 2022. As such, [REDACTED] took a pragmatic view of the inspection with a greater focus on what your Council should be seeking to achieve in future months, which has resulted in a range of suggested actions that are detailed below.

In respect of the Council's RIPA and RIPA related Social Media guidance, Mr. Bainbridge confirmed that structural adjustments that have taken place within the Council during recent years will necessitate the policy to be redrafted, having been last updated in 2019. The policy is a well written and detailed document which will require very little adjustment (other than to update the duration of juvenile authorisations). The 2019 inspection report suggested that the Council might like to consider a section concerning 'non-RIPA' - a term which is used to describe when surveillance may be required, but the statutory requirements cannot be fulfilled. In such circumstances a pseudo-RIPA process of authorisation should be followed, giving consideration to the same themes of necessity and proportionality, albeit a magistrate's approval cannot be sought.

The RIPA social media guidance is similarly detailed and there is a danger that the core message may be lost in the detail; it is therefore suggested that this be reviewed and reduced in length. Councils often find it helpful to circulate key messages about viewing information online and how this might engage RIPA, linking the supporting social media guidance.

Policy revisions provide an ideal opportunity for re-engagement with Council Members concerning the use (or potential use) of RIPA powers and the structures in place for managing this. Paragraph 4.47 of the 2018 Covert Surveillance and Property Interference Code of Practice requires that Elected Members be provided with a regular (at least annual) update on the use of RIPA powers and to approve the Council's policy, likely to go through your Audit and Governance Committee. Mr. Bainbridge was unsure if this responsibility has been fulfilled, but committed to ensuring the required update is provided regularly.

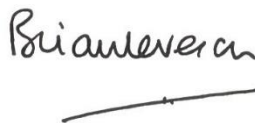
During 2018 the CHIS and Covert Surveillance Codes of Practice were updated to reflect new guidance concerning the safeguarding of data generated as a result of RIPA authorised activity (it should be noted that the CHIS Code has been superseded by a more recent version in December 2022). Your RIPA policy currently states that the Central Record of authorisations is retained for a minimum period of three years. It is important that when entries on the Central Record are reviewed for potential deletion, a review is completed of corresponding case files. Mr. Bainbridge suggested that a retention period of 6 years would be more reflective of the approach taken to investigative material, and it may be helpful to address this matter in the redrafted RIPA policy. [REDACTED] was provided with copies of the Central Record for the last three years, which confirmed that no activity has been undertaken and thus no proactive review of material is required, unless you were to discover that RIPA material is routinely being stored elsewhere – a matter upon which you will wish to assure yourself.

Finally, the management of surveillance devices was discussed, specifically those that are only used for RIPA purposes, rather than equipment such as mobile CCTV which can be used for a range of purposes. Mr. Bainbridge has undertaken to complete a brief check across the Council to ensure that any devices are stored securely and subject to an auditable booking process.

I hope that you and your colleagues have found the inspection process helpful in focusing on maintaining compliance and readiness to use RIPA powers. [REDACTED] wanted me to comment that Mr. Bainbridge has a good level of knowledge about RIPA and appears well equipped to implement any required changes.

If you require any further assistance or wish to provide feedback, my Office is available to you; otherwise I would ask you to respond to this letter within two months of receipt, providing an update against the suggested actions.

Yours sincerely,



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