

PO Box 29105, London
SW1V 1ZU

Ian Gallin
Chief Executive
West Suffolk Council
West Suffolk House
Western Way
Bury St Edmunds
Suffolk IP33 3YU

24 June 2021

Dear Chief Executive,

IPCO Surveillance and CHIS Inspection – West Suffolk 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 21 June, your Council was the subject of a remote inspection by one of my Inspectors, Mr Ges Horne, who looked at your powers in relation to directed surveillance and CHIS. This has been facilitated through your Service Manager (Legal Services) Teresa Halliday, Jennifer Eves, Director of Human Resources and Senior Responsible Officer (SRO), and John Snell, Corporate Manager-Internal Audit and RIPA Co-Ordinating Officer (RCO) for Babergh & Mid Suffolk District Councils, who were all interviewed using video conferencing facilities and provided the supporting documentation requested by the Inspector. In view of the shared legal service arrangements between your Council and Babergh & Mid Suffolk District Councils, the inspections of all three Councils were combined and conducted concurrently.

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

My Inspector has reviewed your Council's RIPA Policy which was being updated at the time of the last inspection conducted by Mr Paul Gratton in September 2018. The Policy is now comprehensive and well written. The Inspector did, however, recommend a major revision to the chapters covering the acquisition of communications data to reflect legislative changes arising from the implementation of the Investigatory Powers Act 2016 (IPA). Mr Horne provided a suitable form of words.

There have been two CHIS authorisations since the last inspection. Both authorisations involved an officer from the Public Health & Housing Department engaging with landlords online to investigate abuses of the Houses in Multiple Occupation (HMO) Regulations. While the statutory considerations of necessity, proportionality and collateral intrusion were articulated well by both the applicant and authorising officer (AO), the management of the process was flawed in a number of respects:

- reviews were completed by way of email exchanges between the AO and applicant rather than using the approved Home Office review forms;
- cancellations were either late or simply allowed to expire;
- a risk assessment was not completed in accordance with paragraph 6.13 of the CHIS Code of Practice.

The Inspector has reported his detailed findings to both the SRO and the Legal Services Manager and they will share the learning points with the applicants and authorising officer cadre. I ask you to consider and to ensure that any observations from the findings of this remote inspection are promptly addressed.

The most recent refresher training for authorising officers was delivered in November 2018. The SRO has confirmed that additional training will be delivered to AOs, together with those officers who are most likely to engage the powers, within the next 12 months.

Mr Horne discussed with the SRO your organisation's approach to the monitoring of social media. The current Policy aligns with the latest guidance contained in the Codes of Practice. Notwithstanding this, there does not appear to be a procedure in place for ensuring that all online activity in connection with enforcement or investigative functions is recorded and periodically scrutinised for oversight purposes. The SRO accepted that this is an area of potential vulnerability for the Council which she will remedy, and the Inspector has provided guidance on what information needs to be captured.

In accordance with paragraph 4.47 of the Home Office Covert Surveillance and Property Interference Code of Practice, the SRO has confirmed that you provide the Elected Members with an annual report sufficient to enable them to determine that the Council's policy remains fit for purpose, together with regular reports on RIPA activity (or inactivity).

The IPCO inspectorate is currently undertaking a programme of work in relation to compliance with the safeguarding measures regarding material acquired under RIPA and the IPA; essentially how this is retained, reviewed, and ultimately destroyed (RRD). The content of my data assurance letter to all public authorities was shared with the SRO. This letter highlights six action points which, upon completion, will allow IPCO to establish a good level of confidence in the safeguarding practices of the authorities we oversee.

Accordingly, the Inspector was provided with a number of policies relating to data protection and information security. Although accurate, these documents do not contain any specific guidance in relation to the RRD of covertly acquired material, and the RIPA Policy simply repeats the record keeping paragraphs contained in the Codes of Practice. What is now required is guidance which will enable practitioners to understand fully their responsibilities and enable them to apply the safeguards in practice. This is an area of compliance which IPCO will focus on more deeply in future inspections.

I hope you share my belief that this video conferencing-based inspection has proved to be a worthwhile exercise. My Office is available to you should you have any queries following the recent inspection, or at any point in the future. Contact details are provided at the foot of this letter.

Particular thanks should be passed to Teresa Halliday, Jennifer Eves and John Snell, who provided comprehensive background reading material and made themselves available for interview at a time of unprecedented challenges faced by all public authorities.

I shall be grateful if you would acknowledge receipt of this letter within two months, and let me know your plans in relation to the observations it contains.

Yours sincerely,

A handwritten signature in black ink that reads "Brian Leveson". The signature is written in a cursive style with a prominent initial 'B'.

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