

IPCO

Investigatory Powers
Commissioner's Office

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30 June 2023

Dear Chief Executive,

Thank you for providing IPCO with your response to the matters identified at points 1 to 9 of my Inspector's letter dated 2nd May 2023.

My Inspector has reviewed the authorisations, concurring with the findings of Ms. Wiles, your Head of Legal and Policy, that the process of allowing authorisations to lapse does not replace the requirement made out within the Covert Surveillance and Property Interference Code of Practice (Scotland) 2017 at the following chapters.

- 5.20 the applicant is to maintain a constant review the authorisation and to bring to the attention of the Authorising Officer when it is no longer required.
- 5.19 the Authorising Officer must cancel when they consider that the directed surveillance no longer meets the criteria.
- 5.21 the date of cancellation to be recorded within a central register.

All elements described requires active, rather than passive management of an authorisation.

My Inspector offers further specific feedback on authorisation TS68RIPSA, which was authorised for eight weeks. The codes at 5.11 describes the duration for directed surveillance as 3 months. It is advisable to permit for 3 months and cancel when the objectives are met, or no longer apply. Authorisation TS62RIPSA was authorised between 22/07/2020 and 21/10/2020, yet the review conducted on 21/08/20 stated the next review would take place on 02/11/2020, after the date of expiry. Finally, Chapter 8 of the codes describes responsibilities in relation to data safeguards. Whilst there is good policy in place, it is good practice for the Authorising Officer to give specific direction around the handling and destruction of material at the point of cancellation.

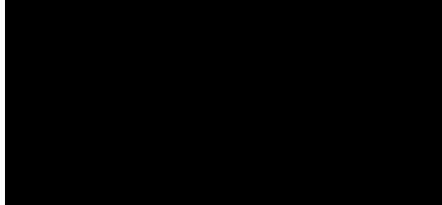
I am satisfied that your reply and oversight by Ms. Wiles provides assurance that ongoing compliance with RIPA 2000 and the Investigatory Powers Act 2016 will be maintained. As such, your Council will not require further inspection this year.

I would ask that you ensure that the key compliance issues continue to receive the necessary internal governance and oversight through yourself and your Senior Responsible Officer: policy refreshes; annual

updates to your Elected Members; ongoing training and awareness raising; internal compliance monitoring by lead managers within their business areas; and the retention, review and destruction (RRD) of any product obtained through the use of covert powers (Records and Product Management in accordance with the Safeguards Chapters of the relevant Codes of Practice). My Inspector has provided guidance on further improvements to your existing RIPA policy in order to better reflect these safeguards.

Your Council will be due its next inspection in 2026, but please do not hesitate to contact my Office if IPCO can be of assistance in the intervening period.

Yours sincerely,



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