

IPCO

Investigatory Powers
Commissioner's Office

PO Box 29105, London
SW1V 1ZU

Mr. Nick Page
Chief Executive
Solihull Borough Council
Council House
Manor Square
Solihull
West Midlands
B91 3QB
Npage@solihull.gov.uk

10 June 2022

Dear Mr. Page,

Inspection of Solihull 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), Director of Resources and Deputy Chief Executive, Mr. Paul Johnson, and Mr. Santokh Gill, Legal Services Team Leader Litigation & Planning, who responded promptly to my Inspector's request and provided the supporting information required. Mr. Gill confirmed that there has been only a single use of the covert powers since the previous inspection, which was an authorisation for directed surveillance relating to tenancy fraud.

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 Mrs Samantha Jones in December 2019. On this occasion no non-compliance areas were noted, but three observations were made, as follows:

1. *The RIPA policy to be further revised to include all references to the IPA and the revised Codes of Practice.*

Partially Discharged – The RIPA policy has been updated (February 2020), but further detail is required to be inserted.

- Elected Members should be formally sighted on the authority's use of the legislation and set policy at least once a year.*

Discharged – Since the last inspection, the Governance Committee has considered two reports on RIPA.

- The current process in place for seeking judicial approval should be reviewed to ensure timeframes are conducive to ensuring compliance with the requirements of the Codes of Practice.*

Discharged - Legal Services now have a process to allow engagement with court management if difficulties are encountered when seeking a hearing for judicial approval.

Your RIPA policy, whilst having been updated following the previous inspection, is in further need of a refresh with more detail required to identify authorisation procedures and the required management processes for Covert Human Intelligence Sources (CHIS). Additionally, and to ensure all members of staff are aware at which point a public volunteer of information may require further assessment for authorisation as a CHIS, the detail contained within the Code of Practice¹ at paragraphs 2.18 to 2.26 would be helpful to include within your policy.

Whilst no formal training has been undertaken for some time, several updates on RIPA procedures have been circulated to staff likely to utilise the covert powers, as well as the provision of an in-house training session, which took place recently. Further training, by a private provider, is planned for June 2022. Standards of compliance can only be maintained and improved upon if a regular training regime for new staff, and refresher training for existing staff, is put in place. This should be a focus for your SRO.

One authorisation for directed surveillance (RIPA 193) has been granted since the previous inspection. The covert activity utilised CCTV and was authorised to identify if tenancy fraud was being committed. The authorisation was viewed during the inspection and was found to have been well formed, with appropriate considerations of necessity, proportionality, and collateral intrusion evident. The authorisation was cancelled due to Covid restrictions being introduced. The cancellation documentation was also noted as being well formed.

A specific focus for the inspection was the retention, review, and destruction (RRD) of data gathered utilising the covert powers available. 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 found within the Codes 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 attended to promptly, 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 SRO is clear on his oversight responsibilities and conducts monthly meetings with your Head of Audit to discuss matters affecting RIPA. This is pleasing to note.

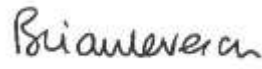
Your authority has been found to be in a good place.

I hope your authority has 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.

¹ Covert Human Intelligence Source (CHIS) Code of Practice, 2018

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 with a prominent initial 'B'.

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