

IPCO

Investigatory Powers
Commissioner's Office

PO Box 29105, London
SW1V 1ZU

Ms J Waggott
Chief Executive
Selby District Council

15 February 2021

Dear Ms Waggott,

IPCO Surveillance and CHIS inspection of Selby 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.

Your Council was recently the subject of a remote inspection by one of my Inspectors, Mrs Samantha Jones. This has been facilitated via MS Teams through your Senior Responsible Officer (SRO) Ms Alison Hartley, Solicitor to the Council and Monitoring Officer. No formal recommendations, but several observations, have been made below as a result of this inspection process.

The last inspection of Selby Council took place during October 2018, by Mr Graham McCrory MBE who made one observation which required appropriate remedial action:

- *The policy document, noted as being reviewed every 18 months, requires having references to the Office of Surveillance Commissioners (OSC) and the Interception of Communications Commissioner's Office (IOCCO), as the RIPA oversight bodies, removed and replaced with reference to the Investigatory Powers Commissioner's Office (IPCO).*

Selby Council has, I understand, undergone periods of upheaval since the last inspection took place. The current SRO has been in that role since late September 2019 following an interval which was reliant on temporary legal cover which concentrated purely on the duties of the Monitoring Officer. This, coupled with the pressures of a snap election, extensive flooding within the district, potential restructuring of local authorities across the North Yorkshire region, and the current pandemic, has meant that the policy, although in draft stages of update, has not been finalised nor put before the Elected Members in accordance with paragraph 4.47 of the Home Office Surveillance Code of Practice; similarly the reporting of the non-use of the powers was also absent. My Inspector has been assured that this work is now firmly on the radar of your SRO, with a full review of both overt (including CCTV) and covert policy currently being undertaken with a focus on providing an up to date training package, conspicuous by its absence, for all relevant staff when the policy is approved.

Whilst your Council has not exercised its RIPA powers for a considerable period of time, it was clear Selby is alive to the possibility of online social media research being carried out and is considering the use of this medium once the review of policy has been completed. This, combined with an identified training programme and management oversight, should provide assurances that any research undertaken does not drift into surveillance territory without the appropriate authorisation being in place. Consideration should also be given to the oversight and governance of any covert structures and subsequent evidential capture of material.

Your Council has also emphasised to staff that personal profiles should not be used for council business within the Employee Code of Conduct and Acceptable Use documents. This is pleasing to note, as it is incumbent on you to ensure the safety and security of staff. The dangers aligned to using personal social media accounts for business purposes, especially those of a covert nature, should not be underestimated, and all staff should be cognisant of their own personal online security and of the vulnerabilities attached to using any insecure or personal online platform.

There have been no authorisations for the use and conduct of a CHIS. This reflects the widespread practice, common amongst local authorities, of never or rarely authorising CHIS. The possibility of status drift was discussed with the SRO in relation to the monitoring of information provided by members of the public, as well as online activity. Ms Hartley is confident that sufficient awareness exists amongst staff to be alert to any potential status drift.

It is understood that your Council is registered with the National Anti-Fraud Network (NAFN) for the purposes of obtaining communications data and is cognisant of the extension of powers introduced by the Investigatory Powers Act 2016 to include details of in and out call data and cell site location. This represents a significant opportunity to enhance investigations, and in addition, registration with NAFN also provides lawful access to other forms of data from the DVLA, Equifax and a variety of other financial/fraud check organisations.

As part of the inspection process the Council's stance on the review, retention and destruction (RRD) of documentation was also assessed. The Central Register is comprised of an Excel spreadsheet, although as would be expected, no details are currently held. Access is restricted to the Senior Solicitor and Corporate Management Team. The data pathways of any material captured by way of an authorisation under the legislation is clear, with the investigative files held within the relevant Service department until they are transferred to Legal Services. There is a separate RRD policy, linked to the information assets register held by the Data Protection Officer, which will dovetail into the updated RIPA policy. Legal Services, in conjunction with individual responsible officers within the service areas, will be responsible for triggering the review and destruction of relevant material.

Mrs Jones would like to thank Ms Hartley for her engagement at a time of unprecedented demands on local authorities. I hope that this video-based inspection has proved to be helpful and constructive. My Office is available to you should you have any queries following the 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 the report within two months, with a specified plan to address the observations made.

Yours sincerely,



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