

**DERBYSHIRE COUNTY COUNCIL**

**AUDIT COMMITTEE MEETING**

**27 May 2020**

**Report of the Assistant Director of Finance (Audit)**

**REGULATION OF INVESTIGATORY POWERS ACT**

**1. Purpose of the Report**

To inform Members of the outcome of the inspection of the Council's procedures relating to the use of its powers under the Regulation of Investigatory Powers Act (RIPA) by Mrs Samantha Jones of the Investigatory Powers Commissioner's Office (IPCO).

**2. Information and Analysis**

The inspection comprised the provision of a number of documents prior to and following a telephone discussion with the Inspector on 15 April 2020. These included the Council's revised RIPA Policy which was finalised following the meeting of the Audit Committee on 4 February 2020 and Social Media Policy.

The results of the inspection are included in a letter addressed to the Executive Director - Commissioning, Communities and Policy from The Investigatory Powers Commissioner dated 24 April 2020 which is attached at Appendix 1. In summary the Commissioner confirms that the Council:

- *“demonstrated a level of compliance that removes, for the present, the requirement for a physical inspection. Four of the six previous recommendations emanating from the 2016 inspection have been discharged”* and
- *“It must be emphasised that although your Council has not exercised its RIPA powers since 2012, there is good work being undertaken in ensuring that activity instigated by your staff when accessing the internet and social media sites is subject of a robust audit regime and a separate policy document. This document, together with the overarching RIPA policy document and your retention policy, is indicative of your level of commitment to ensure compliance with the legislation.”*

The outstanding recommendations relate to training for appropriate staff involved in RIPA related procedures and raising staff awareness of RIPA. Prior to the coronavirus pandemic and subsequent lockdown it was intended to deliver internal and external training for relevant staff.

I have confirmed that I will progress the intended training for staff involved in the RIPA process which will include training for RIPA Liaison Officers who act

as a focal point for their Departments. I have also discussed and agreed the inclusion of RIPA in our on-line information governance training with the Executive Director - Commissioning, Communities and Policy which is provided to all appropriate staff. These actions will increase staff awareness of RIPA and consequently should address the recommendations raised, and have been noted by the IPCO.

### **3. Legal Considerations**

The Regulation of Investigatory Powers Act 2000 and the Investigatory Powers Act 2016 regulate the use of a range of investigative powers by a variety of public authorities. This legislation provides a statutory framework for the authorization and conduct of certain types of covert surveillance. Its aim is to provide a balance between preserving a person's right to privacy and enabling enforcement agencies to gather evidence for effective enforcement action. Local authorities can only use these powers for the prevention and detection of crime and their use is subject to review by the independent IPCO.

### **4. Other Considerations**

In preparing this report the relevance of the following factors has been considered: financial, prevention of crime and disorder, equality and diversity, human resources, environmental, health, property and transport considerations.

### **5. Officer's Recommendation**

That the Committee note the outcome of the inspection of the Council's procedures relating to the use of its powers under the Regulation of Investigatory Powers Act by the Investigatory Powers Commissioner's Office.

**Carl Hardman**  
**Assistant Director of Finance (Audit)**



Investigatory Powers  
Commissioner's Office

PO Box 29105, London  
SW1V 1ZU

Ms E Alexander  
Executive Director  
Derbyshire County Council

24 April 2020

Dear Ms Alexander,

### **Inspection of Derbyshire County Council**

Your Council was recently the subject of a telephone based inspection by one of my Inspectors, Mrs Samantha Jones. This has been facilitated through your Senior Responsible Officer (SRO), Mr Carl Hardman, Assistant Director of Finance (Audit), who was interviewed over the phone.

The information provided has demonstrated a level of compliance that removes, for the present, the requirement for a physical inspection. Four of the six previous recommendations emanating from the 2016 inspection have been discharged. The two remaining recommendations related to increasing staff awareness of the requirements of RIPA throughout the organisation and to develop a robust training programme for all relevant staff. Bar authorising officer training undertaken for two new authorising officers in 2018, no formal training or increased awareness raising has been undertaken since 2016.

Whilst I note that prior to the coronavirus outbreak it was intended to update your training material and deliver internal training as well as arranging training provision from an external provider, this should ideally be provided on an annual basis. It is important that officers engaged in investigatory or enforcement areas where RIPA considerations are not so immediately apparent maintain their levels of knowledge and know whom to approach for guidance. For that reason, those two recommendations remain extant and I ask you to consider and ensure that these and any further observations from the findings of the remote inspection are promptly addressed.

It must be emphasised that although your Council has not exercised its RIPA powers since 2012, there is good work being undertaken in ensuring that activity instigated by your staff when accessing the internet and social media sites is subject of a robust audit regime and a separate policy document. This document, together with the overarching RIPA policy document and your retention policy, is indicative of your level of commitment to ensure compliance with the legislation. It has been highlighted to Mr Hardman that the current CCTV policy would benefit from being updated to include a segment outlining procedural arrangements with law enforcement on their use of the Council owned CCTV system under a directed surveillance authorisation.

In conclusion, I take the opportunity here to remind you of the importance of regular, ongoing internal oversight of the actual or potential use of these powers, which should be managed through the Senior Responsible Officer. The SRO has given assurances to the Inspector that the integrity of your Council's processes and governance procedures will be strengthened through a bespoke training programme as recommended by the Inspector, to ensure that high standards of compliance with the Act and relevant codes of practice are maintained.

I hope that you find the inspection report to be helpful and constructive. 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.

I shall be grateful if you would acknowledge receipt of the report, and in particular, your plans in relation to the two extant recommendations from 2016, within two months.

Yours sincerely,



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