



Investigatory Powers
Commissioner's Office

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27th September 2019

Inspection of Carmarthenshire County Council

Dear Chief Executive,

Your authority was recently subject to inspection by one of my Inspectors, Mr. Graham McCrory MBE, as to the use of covert powers under the Regulation of Investigatory Powers Act 2000 (RIPA). I am grateful to you for facilitating this through your Legal Services Manager, Robert Edgecombe, who provided an extremely comprehensive reply to the request for relevant material and documentation and was helpful throughout the process.

I note that there has been no use of the available covert powers since the last inspection.

I further note that the one recommendation from the previous inspection (by the OSC) in April 2016, regarding the updated training of your staff, has been completed.

Whilst RIPA refresher training has been undertaken, the last in December 2018, it is a useful exercise to consider 'real life' RIPA scenarios, possibly by way of a 'table top' exercise, in order to assess not only the knowledge of your staff but also their operational suitability and capability to manage and deal with matters should the Act be engaged with. This may be something you are willing to take forward.

It is encouraging to note that your authority has considered the use of the internet as an investigative tool and has several policies, to advise staff, on the compliant use of this fast-developing area. That said, there is an observation in this area made by my Inspector, along with another observation, which are detailed below.

Whilst there is no need for a physical inspection at this stage, the observations of Mr McCrory are as follows:

1. Internet activity, as alluded to, has been a focus of your staff. This is to be commended. That said, training alone will not assure that unauthorised activity in this area is or has been undertaken. As with other oversight roles, which must be in place and overseen by the SRO, the area of internet use and investigation is no different. A regular regime of 'dip sampling' internet activity undertaken by all Council staff is required and this, if effectively carried out and documented, should give confidence to the SRO that adequate processes are in place to avoid errors occurring and should further serve to concentrate the minds of those staff who use the internet on behalf of the Council, in addition to the policies already in place and available for guidance. The revised Code of Practice for Covert Surveillance and Property Interference (2018), paragraphs 3.10 to 3.17, provides advice and examples of 'online' covert activity which would be helpful if included within the Council's existing policies on this subject, in addition to a hyperlink to these contained within the appendices of the aforementioned policies.
2. The inclusion of a mock RIPA application, for directed surveillance, within the guidance documents for your staff is a positive move. That said, the current example contains details of how an application can be made utilising urgency provisions. The urgency provisions have not been available for some time, following changes made under The Protection of Freedoms Act 2012. To avoid any confusion, this section should be removed from the mock example created for the information and guidance of your staff.

I take this opportunity to thank you for the reply to my Inspector's initial request. It is pleasing to note that the comprehensive reply by your Council was accompanied by several policy documents, including an audit of surveillance equipment held and a list of those staff who attended RIPA training, which was personally signed by all those staff. The detailed reply and additional documentation forwarded, gives confidence that your staff are cognisant of their responsibilities to remain compliant with the Act.

I hope that you find the inspection findings to be helpful and constructive. Generally, I am concerned at the reduction in the use of investigatory powers across England, Scotland, Wales and Northern Ireland and there may be greater scope for considering the use of authorised investigative activity. It goes without saying that these are operational decisions that are entirely for your Council, but IPCO is a resource to assist in the lawful use of these powers.

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.

Yours sincerely,

A handwritten signature in black ink that reads "Adrian Fulford". The signature is written in a cursive, slightly slanted style.

The Rt. Hon. Lord Justice Fulford
The Investigatory Powers Commissioner