

IPCO INSPECTION 2024

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Wards affected:	(All Wards);
Appendices (attached):	Appendix 1 – Final IPCO Reply Letter 2024

Summary

This report provides the Committee with the outcome of the Investigatory Powers Commissioner's Office (IPCO) latest inspection. The Council was due its usual three-yearly inspection by IPCO, regarding its compliance with the Regulation of Investigatory Powers Act 2000 (RIPA) and the Investigatory Powers Act 2016. The Council was last inspected in January 2021.

Following the receipt of the Council's responses to the inspection information request, the Investigatory Powers Commissioner are satisfied that the Council's reply provides assurance that ongoing compliance with RIPA 2000 and the Investigatory Powers Act 2016 will be maintained. As such, the Council did not require further inspection this year.

The Commissioner highlighted three minor areas where the Council can enhance its RIPA Policy. Officers will update the RIPA Policy as per the Commissioner's recommendations, which will then be brought to the Committee as part of the annual RIPA report in March 2025.

Recommendation (s)

The Committee is asked to:

- (1) Note the findings and recommendations from the Investigatory Powers Commissioner's Office 2024 inspection.**

1 Reason for Recommendation

- 1.1 To provide assurance to the Committee that the Council is compliant with the Regulation of Investigatory Powers Act 2000 (RIPA) and the Investigatory Powers Act 2016.

2 Background

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- 2.1 The Council is inspected by the IPCO every three years to ensure its compliance with RIPA and the Investigatory Powers Act 2016. The latest inspection concluded on the 10th June 2024 upon receipt of the Investigatory Powers Commissioner's final inspection letter.
- 2.2 Following a review of how IPCO conducts its oversight of local authorities, they no longer routinely undertake physical / remote inspections, as has previously been the case. Instead, the Investigatory Powers Commissioner agreed that each local authority should provide a written update, in the first instance, on its compliance with the legislation.

3 Outcome of the 2024 IPCO Inspection

- 3.1 Following the receipt of the Council's written update and engagement with the IPCO Inspector, the Commissioner is satisfied that the Council's reply provides its assurance that ongoing compliance with RIPA 2000 and the Investigatory Powers Act 2016 will be maintained. As such, the Council did not require further inspection this year.
- 3.2 The Commissioner highlighted three areas where the Council can enhance its RIPA Policy.
 - Review of paragraph 46 of the RIPA Policy in relation to social media investigations, and in particular the phrase - "Where privacy settings are available but have not been used, authorisation is not usually required to access and use that data in an investigation." Paragraph 3.13 and 3.14 of the CHIS Code of Practice 2018 has some guidance, "in some circumstances privacy implications still apply. This is because the intention when making such information available was not for it to be used for a covert purpose such as investigative activity. This is regardless of whether a user of a website or social media platform has sought to protect such information by restricting its access by activating privacy settings". The RIPA policy does continue to provide some good explanation at Annex 3.
 - The RIPA Policy has a few references to the OSC (Office of Surveillance Commissioners) which is now defunct and replaced by IPCO.
 - The addition of a section in the RIPA Policy about Records and Product Management, with regard to any material generated from an authorisation, and a review of any previously generated material if applicable.
- 3.3 Officers will update the RIPA Policy as per the Commissioner's recommendations. The updated Policy will be brought to the Committee as part of the annual RIPA report in March 2025.

4 Risk Assessment

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Legal or other duties

4.1 Equality Impact Assessment

4.1.1 No direct implications.

4.2 Crime & Disorder

4.2.1 No direct implications.

4.3 Safeguarding

4.3.1 No direct implications.

4.4 Dependencies

4.4.1 None.

4.5 Other

4.5.1 None.

5 Financial Implications

5.1 No implications.

5.2 **Section 151 Officer's comments:** None arising from the contents of this report.

6 Legal Implications

6.1 No implications beyond ongoing maintenance of compliance activities.

6.2 Legal Officer's comments: None arising from the contents of this report.

7 Policies, Plans & Partnerships

7.1 **Council's Key Priorities:** The following Key Priorities are engaged:

- Effective Council.

7.2 **Service Plans:** The matter is not included within the current Service Delivery Plan.

7.3 **Climate & Environmental Impact of recommendations:** No implications.

7.4 **Sustainability Policy & Community Safety Implications:** None.

7.5 **Partnerships:** No implications.

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8 Background papers

8.1 The documents referred to in compiling this report are as follows:

Previous reports:

- None.

Other papers:

- EEBC (2024) *Annual report on the use of RIPA powers*, Audit & Scrutiny Committee, 28th March 2024. Online available: <https://democracy.epsom-ewell.gov.uk/ieListDocuments.aspx?CId=157&MId=1523> [last accessed 21/08/24].