



Investigatory Powers  
Commissioner's Office

PO Box 29105, London  
SW1V 1ZU

Mr. Mark Rolfe  
Head of Kent Scientific Services  
Kent County Council

14 April 2022

**Relevant Error – Directed Surveillance – Trading Standards**

Dear Mr. Rolfe,

Thank you for the formal relevant error notification received by this office on 5 April 2022. The relevant error relates to covert surveillance, by way of obtaining photographic images whilst conducting observations, without the necessary protection of RIPA being in place. Your report comprehensively describes the background to the activity which, whilst being conducted in good faith gave no consideration as to the need or otherwise for a directed surveillance authorisation being sought. It is clear that the officer deployed to the area did so without seeking advice or guidance from appropriate persons within the council. Had they sought such guidance we are sure that the directions provided within paragraphs 3.39 and 4.32<sup>1</sup> would have been followed.

We are satisfied that there has been no deliberate attempt to circumvent the legislation or code of practice, and that the relevant error occurred due to inexperience and lack of knowledge on RIPA matters. We acknowledge that a thorough review has been carried out by you and that a number of learning points have been identified from an operational perspective. We are satisfied that the processes applied once the error was identified, and the remedial action taken, have been appropriate and in accordance with the relevant codes of practice.

Whilst we acknowledge the procedure applied to images taken by your member of staff and it is worth noting that despite being gathered without RIPA protection it does not necessarily follow that the images would be inadmissible in any court proceedings. You may wish to consider this aspect should the images be of evidential value and would wish to explore this aspect with the Crown Prosecution Service (CPS) if appropriate.

We would also ask that you ensure the relevant error is outlined to the IPCO inspection team at your next scheduled inspection.

Yours sincerely

*IPCO Secretariat*

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<sup>1</sup> Home Office Code of Practice on Covert Surveillance and Property Interference, August 2018.