

TITLE OF REPORT: MONITORING OF THE REGULATION OF INVESTIGATORY POWERS ACT 2000

REPORT OF THE CORPORATE LEGAL MANAGER AND MONITORING OFFICER

1. SUMMARY

1.1 This Report presents to the Overview and Scrutiny Committee an update on the position in relation to the Regulation of Investigatory Powers Act 2000 (RIPA).

2. FORWARD PLAN

2.1 This report does not contain a recommendation on a key decision and has not been referred to in the forward plan.

3. BACKGROUND

3.1 Members are referred to the Report of the Corporate Legal Manager dated 20 September 2011. Members will recall that the two Codes of Practice state that elected Members should review the local authority's use of RIPA.

4. ISSUES**4.1 Council's Use of RIPA**

4.1.1 There have been no further RIPA authorisations since the last Report to the Committee on 20 September 2011.

4.1.2 Members will recall from the previous Report in September, that there were two RIPA authorisations earlier in the year. In respect of one of those RIPA Authorisations, the Corporate Legal Manager provided a brief verbal update at the last Committee meeting. Further to that update, a more detailed overview is set out below.

4.1.3 It is a requirement of the Council's RIPA Policy that RIPA Authorisations are reviewed, and renewed or cancelled as appropriate. On investigation it transpired that the RIPA authorisation in question had been allowed to lapse rather than being actively managed as is the intention of the Policy.

4.1.4 It should be noted that whilst this is of course unfortunate and regrettable, it was merely an administrative error. A change in circumstances meant that no covert surveillance had actually been undertaken in this instance, and so there was no actual mischief caused by the oversight.

- 4.1.5 The cancellation of surveillance form has since been completed.
- 4.1.6 The Corporate Legal Manager has spoken with the Officer applying for the authorisation, and the Authorising Officer about the error, and steps have been put in place to ensure that lessons are learnt and the risk of repetition is reduced. The Corporate Legal Manager in her statutory role as Monitoring Officer has reminded all Senior Officers of the need to ensure that Officers have regard to the RIPA Policy, and has also asked that any requests for a RIPA Authorisation are first informally discussed with Legal Services. This has been endorsed by the Chief Executive.
- 4.1.7 In addition the Council has an internal Officer Enforcement Forum that considers issues including RIPA. That Forum last met on 21 November 2011. The Forum considered how to disseminate good practice and address ongoing and future Training needs. Training for relevant Officers, facilitated by an external trainer, was last run at the Council on 2 February 2011. In order to support the efficient use of resources, the Forum discussed a rolling cycle to include the use of the Staff Teamtalk, periodic Agenda Items at the Senior Management Group meetings, and the use of an external trainer every other year to conduct in depth training sessions.
- 4.1.8 The Corporate Legal Manager will continue to have in place a regular review of RIPA authorisation forms, and will continue to work with officers to ensure that consistency is maintained and errors minimised and reduced so far as possible.

4.2 Policy Review

4.2.1 The Corporate Legal Manager reported at the last Committee meeting that the existing RIPA Policy was being recommended to Cabinet to re-confirm the existing Policy for the forthcoming year.

4.2.2 Cabinet resolved on 27 September 2011 that:

RESOLVED: That the RIPA policy, approved by Cabinet on 28 September 2010 and attached as Appendix 1 to the report, be approved for a further year.

4.3 Update on the Future of RIPA

4.3.1 Members will recall from the first Report to the Committee on 9 June 2011 that amendments are proposed in the Protection of Freedoms Bill that is before Parliament. That is currently being considered by the House of Lords. The Lords second Reading was on 8th November with the Committee Stage due to start on 29th November 2011.

4.3.2 Updates will be provided as the legislation progresses.

5. LEGAL IMPLICATIONS

5.1 The Report is before the Overview and Scrutiny Committee for consideration in accordance with its Terms of Reference.

6. FINANCIAL AND RISK IMPLICATIONS

- 6.1 It is important that the Council continues to operate in accordance with RIPA to ensure that it is able to effectively manage its reputational risk whilst also exercising its legitimate evidence gathering powers in connection with enforcement activity.
- 6.2 There are no financial implications arising from this Report.

7. HUMAN RESOURCE AND EQUALITIES IMPLICATIONS

- 7.1 The officer involvement required to comply with these statutory obligations are factored into service plans and work plans. Where necessary, specialist skills may be required to deal with matters such as legal support and advice.
- 7.2 The Council incorporates the statutory equalities duties which apply to all its activities into policies and services as appropriate, as set out in the Council's Corporate Equality Strategy. We also recognise that in our society, groups and individuals continue to be unfairly discriminated against and we acknowledge our responsibilities to actively promote good community relations, equality of opportunity and combat discrimination in all its forms.
- 7.3 The contents of this report do not directly impact on equality, in that it is not making proposals that will have a direct impact on equality of access or outcomes for diverse groups.

8. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 8.1 None.

9. RECOMMENDATIONS

- 9.1 Members are asked to note the matters contained in this Report.

10. REPORT AUTHOR

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