

**OVERCIEW AND SCRUTINY
11 JUNE 2013**

***PART 1 – PUBLIC DOCUMENT**

AGENDA ITEM No.

10

TITLE OF REPORT : REGULATION OF INVESTIGATORY POWERS ACT UPDATE

REPORT OF THE ACTING CORPORATE LEGAL MANAGER

1. SUMMARY

1.1 This Report updates on the Council's current use of RIPA and summarises the outcome of the recent inspection by the Office of Surveillance Commissioner's (OSC).

2. RECOMMENDATIONS

2.1 That the content of the report be noted.

3. REASONS FOR RECOMMENDATIONS

3.1 To comply with best practice guidance and the Committee's terms of reference.

4. ALTERNATIVE OPTIONS CONSIDERED

4.1 None.

5. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

5.1 None.

6. FORWARD PLAN

6.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.

7. BACKGROUND

7.1 Members are referred to previous Reports of the Corporate Legal Manager. Members will recall that the Codes of Practice state that elected Members should review the local authority's use of RIPA.

7.2 The OSC inspect Local Authorities periodically to monitor the use of surveillance powers. The Council was last inspected in July 2010.

7.3 Since the last inspection in July 2010 the Council's use of directed surveillance has fallen, with only two authorisations in the three years. Neither of those authorisations were actually used, and no directed surveillance was carried out.

- 7.4 His Honour Norman Jones QC visited the Council offices on 17 April 2013, where he conducted interviews and discussions with officers, an examination of the Central Record of Authorisations and inspected applications/authorisations, reviews, renewals and cancellations.

8. ISSUES

Council's Use of RIPA

- 8.1 There have been no further RIPA authorisations since the last Report to the Committee. There are currently no ongoing RIPA authorisations.
- 8.2 During the RIPA inspection (see below) the opportunity was taken to query whether the Council should continue with the quarterly report to Overview and Scrutiny Committee when RIPA is not currently being used. The answer was 'yes' as it was felt that it was important that the issue of RIPA remained in the consciousness of Members (and Officers) and that the quarterly report and annual policy review were useful mechanisms for this.

OSC Inspection

- 8.3 The Inspector's report concluded that the Council does have "good structures already in place for which it should be commended. The RIPA Policy and Procedures is of a high standard, the management structure for RIPA is sound, the Enforcement Forum serves a useful purpose and systems exist for raising awareness and avoiding unauthorised surveillance". The report also identified "grounds for optimism" and that two key officers "appear to be dedicated, efficient and determined to create a system which will achieve high standards".
- 8.4 The report made recommendations on how the process can be improved, and most of these changes have been actioned following receipt of the report. These include minor amendments to the Council's RIPA Policy and procedures, and adopting the most recent version of the Home Office forms. Proposed revisions to the Policy will be reported to the Senior Management Team on 25 June 2013, before being reported to Overview and Scrutiny and Cabinet in the usual way.
- 8.5 The Inspector identified that where authorities do not regularly use RIPA (which is the case with this Council) there was a risk that officers may become de-skilled, or the general level of awareness is not sufficient, and that either potentially might lead to inadvertent unauthorised surveillance. The report therefore identified a need for an ongoing RIPA training programme for officers, proposals for which will be discussed at the Senior Management Team meeting on 25 June 2013.

9. LEGAL IMPLICATIONS

- 9.1 The Council's RIPA Policy must be updated to ensure that the Council acts lawfully within its powers and complies with best practice
- 9.2 The Council's Overview and Scrutiny Committee's Terms of Reference and Council's Constitution state that it shall be entitled to consider reports relating to the authority's use of the Regulation of Investigatory Powers Act (2000) (RIPA).

10. FINANCIAL IMPLICATIONS

10.1 There are no financial implications arising from this Report.

11. RISK IMPLICATIONS

11.1 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.

12. EQUALITIES IMPLICATIONS

12.1 The Equality Act 2010 came into force on the 1st October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5th April 2011. There is a General duty, described in 8.2, that public bodies must meet, underpinned by more specific duties which are designed to help meet them.

12.2 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

12.3 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. The commencement of improvements arising from the 'Protections of Freedoms Act' strengthens existing Human Rights Legislation, protecting individuals from inappropriate levels of covert surveillance, such as that used by some authorities, featured in the national media, regarding the enforcement of school catchment areas.

13. SOCIAL VALUE IMPLICATIONS

13.1 As the recommendations made in this report do not constitute a public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and opportunities are identified in the relevant section at paragraphs 12.

14. HUMAN RESOURCE IMPLICATIONS

14.1 The officer involvement required to comply with these statutory obligations are factored into service plans and work plans. The training programme to be reported to the Senior Management Team will be met from existing budgets.

15. APPENDICES

15.1 None

16. CONTACT OFFICERS

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17. BACKGROUND PAPERS

17.1 None