

**OVERVIEW AND SCRUTINY
16 SEPTEMBER 2014**

***PART 1 – PUBLIC DOCUMENT**

AGENDA ITEM No.

12

TITLE OF REPORT : REGULATION OF INVESTIGATORY POWERS ACT UPDATE AND ANNUAL REVIEW

REPORT OF THE CORPORATE LEGAL MANAGER

1. SUMMARY

- 1.1 This Report updates on the Council's current use of RIPA and reports on the annual policy review.

2. RECOMMENDATIONS

- 2.1 That the content of the report be noted.
- 2.2 That Overview and Scrutiny Committee recommend to Cabinet the re-adoption of the Council's RIPA Policy.

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 Council's current RIPA Policy was approved by Cabinet on 30 July 2013 and included changes to reflect the recommendations of the Office of Surveillance Commissioner's (OSC) inspection report of 15 May 2013. The RIPA Policy must be reviewed annually.

8. ISSUES

Council's Use of RIPA

- 8.1 Members may recall that it was considered that the quarterly report to Overview and Scrutiny Committee should continue even though RIPA is not currently being used, as this provides a useful mechanism to ensure that the issue of RIPA remains in the consciousness of Members (and Officers).
- 8.2 There have been no further RIPA authorisations since the last Report to the Committee. There are currently no ongoing RIPA authorisations.

Annual Review

- 8.3 A comprehensive review of the Council's policy was carried out in 2013, informed by the comments of the OSC. All the points identified by the OSC were addressed in the amended policy considered by Overview and Scrutiny Committee and adopted by Cabinet. The Council has not used its RIPA powers since the policy was last reviewed and there has been no updated guidance produced by the OSC. It is therefore proposed to re-adopt the Council's existing RIPA policy for a further year.

9. LEGAL IMPLICATIONS

- 9.1 The 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).
- 9.2 The Overview and Scrutiny Committee will consider this report and make a recommendation to Cabinet in line with its Terms of Reference. It is Cabinet's responsibility to adopt the RIPA Policy

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.

15. APPENDICES

- 15.1 Appendix A – RIPA Policy and Procedures

16. CONTACT OFFICERS

- 16.1 Anthony Roche, Acting Corporate Legal Manager and Monitoring Officer.
Telephone 01462 474588. E-mail address anthony.roche@north-herts.gov.uk

17. BACKGROUND PAPERS

- 17.1 None