

**OVERVIEW AND SCRUTINY
8 DECEMBER 2015**

***PART 1 – PUBLIC DOCUMENT**

AGENDA ITEM No.

10

**TITLE OF REPORT: REGULATION OF INVESTIGATORY POWERS ACT UPDATE AND
USE OF SOCIAL NETWORKING SITES IN INVESTIGATIONS UPDATE**

REPORT OF THE CORPORATE LEGAL MANAGER

1. SUMMARY

- 1.1 This Report updates on the Council's current use of RIPA and updates on the new Use of Social Networking Sites in Investigations policy.

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 Members were updated at the last meeting of the Overview & Scrutiny Committee held on 22nd September 2015 that a separate policy, specifically dealing with the use of Social Networking Sites when investigating cases for prosecution, was being developed.

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.

Use of Social Networking Site in Investigations Policy

- 8.3 This separate policy is focusing specifically on the use of Social Networking Sites as a tool for gathering evidence when investigating cases for prosecution. It has been alluded to in previous reports that the OSC has an interest in the use of Social Networking Sites and the proposed approach is in line with the OSC's views.
- 8.4 The policy is currently in the drafting stage and will need to be finalised and consulted with relevant officers, through the Corporate Enforcement Forum and SMT before it is put before members.

9. LEGAL IMPLICATIONS

- 9.1 The Overview and Scrutiny Committee's Terms of Reference and Council's Constitution at paragraph 6.2.7(r) states 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.

15. APPENDICES

- 15.1 None

16. CONTACT OFFICERS

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17. BACKGROUND PAPERS

- 17.1 None