

OVERVIEW & SCRUTINY
19 JANUARY 2021

PART 1 – PUBLIC DOCUMENT

**TITLE OF REPORT: REGULATION OF INVESTIGATORY POWERS ACT ('RIPA')
ANNUAL REVIEW**

REPORT OF: LEGAL REGULATORY TEAM MANAGER & DEPUTY MONITORING OFFICER

EXECUTIVE MEMBER: THE LEADER OF THE COUNCIL: COUNCILLOR MARTIN STEARS-HANDSCOMB

COUNCIL PRIORITY: BUILD THRIVING AND RESILIENT COMMUNITIES

1. EXECUTIVE 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 by Committee.

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 RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1. None.

6. FORWARD PLAN

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

7. BACKGROUND

- 7.1. The Council is required to have arrangements and a RIPA Policy in place. The current one was last approved by Cabinet in June 2020 (updated together with the Social Media in Investigations Policy¹).

¹ <https://democracy.north-herts.gov.uk/ieListDocuments.aspx?CId=133&MId=2401&Ver=4> Item 13

- 7.2. The Social Media in Investigations Policy was slightly updated at the time to reflect the use of open (not covert) enforcement Facebook pages. Only one page being partially implemented for the Community Safety team. The account is not live as yet and will only be live once compliant with data protection requirements
- 7.3. Members should note the Council has not used surveillance powers or accessed communications data for some time, lastly noted in **2011**.
- 7.4. The Shared Anti-Fraud Service ('SAFs') does, however, utilise such powers and these are regulated through Herts County Council's processes. External training was nevertheless arranged for enforcement officers and authorising officers in January 2020 from ActNow and in August 2020 from the Nafn (National Anti-Fraud Network), to keep officers up to date.
- 7.5. Members will also note that in accordance with good practice guidelines Members receive quarterly updates on the use of any powers via the Member Information Service.

8. RELEVANT CONSIDERATIONS

- 8.1 There are no ongoing authorisations.

9. LEGAL IMPLICATIONS

- 9.1. The Regulation of Investigatory Powers Act 2000 ("RIPA") enables local authorities to carry out certain types of surveillance activity, as long as specified procedures are followed. The information obtained as a result of surveillance operations can be relied upon in court proceedings providing RIPA is complied with. The Investigatory Powers Act 2016 ("IPA") is the main legislation governing the acquisition of communications data. The information obtained as a result of these acquisitions can also be relied upon in court proceedings providing IPA is complied with. Full details of the RIPA requirements and compliance are set out in the Policy, with relevant documents and guidance document available to relevant officers via the intranet should they consider it necessary to use these powers.
- 9.2. The Overview and Scrutiny Committee's Terms of Reference in the 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. 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.
- 12.2. 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.

13. SOCIAL VALUE IMPLICATIONS

- 13.1. The Social Value Act and “go local” requirements do not apply to this report.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1. There are no known Environmental impacts or requirements that apply to this report

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 The officer involvement required to comply with these statutory obligations are factored into service plans and work plans. Further training is in the process of being arranged relating to the use of communications data in investigations and application process by SAFs with relevant officers.

16. APPENDICES

- 16.1 None – although see link to Cabinet papers and Policies reviewed as set out above.

<https://democracy.north-herts.gov.uk/ieListDocuments.aspx?CId=133&MId=2401&Ver=4>

<https://democracy.north-herts.gov.uk/ieListDocuments.aspx?CId=134&MId=2431&Ver=4>

17. CONTACT OFFICERS

Author

Nurainatta Katevu, Legal Regulatory Team Manager.
nurainatta.katevu@north-herts.gov.uk ext 4364

Contributors

Jeanette Thompson, Service Director Legal and Community.
jeanette.thompson@north-herts.gov.uk; ext. 4370

Ian Couper, Service Director Resources
ian.couper@north-herts.gov.uk; ext. 4243

Reuben Ayavoo, Policy and Community Engagement Manager
reuben.ayavoo@north-herts.gov.uk; ext. 4212

18. BACKGROUND PAPERS

- 18.1 Policy documents referred to above and previous Cabinet reports.