

## OVERVIEW AND SCRUTINY COMMITTEE

24 March 2026

### \*PART 1 – PUBLIC DOCUMENT

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

REPORT OF: SERVICE DIRECTOR – GOVERNANCE / MONITORING OFFICER

EXECUTIVE MEMBER: COUNCILLOR DANIEL ALLEN

COUNCIL PRIORITY: THRIVING COMMUNITIES / ACCESSIBLE SERVICES

#### **1. EXECUTIVE SUMMARY**

This Report provides an update on the Council's current use of RIPA and reports on the annual policy review. The Report also provides an update on the proposed amendments to the Council's RIPA Policies following its annual review.

#### **2. RECOMMENDATIONS**

##### **That the Committee:**

- 2.1. notes the content of the report; and
- 2.2. recommends to Cabinet the adoption of the amended RIPA Policy (Appendix A).

#### **3. REASONS FOR RECOMMENDATIONS**

- 3.1. The Council is required to ensure it has an up-to-date, compliant and operationally usable RIPA framework that reflects current legislation and codes of practice and supports effective governance and assurance.
- 3.2. Approval of the updated policy reduces legal, regulatory and reputational risk, supports lawful enforcement activity where required, and strengthens transparency and democratic oversight.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1. None.

#### **5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS**

- 5.1. Internal consultation has been undertaken with relevant officers. External consultation is not required; however, the policy update has been informed by statutory Codes of Practice and inspection/assurance expectations applicable to all public authorities.

#### **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 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.

7.2. The Council is required to have arrangements and a RIPA Policy in place. 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 seek to use these powers.

7.3. RIPA regulates the use of certain surveillance powers by public authorities, including: –

- Directed Surveillance (covert surveillance conducted as part of a specific investigation likely to result in obtaining private information about an individual), –
- Use of Covert Human Intelligence Sources (CHIS), and
- Access to communications data (e.g. details of subscribers to telephone numbers or email accounts)

7.4. The Council is a very rare user of these powers, although the Shared Anti-Fraud Service (‘SAFs’) does so (note below). It is important that it has sufficient oversight of its activities to ensure that any considered use is compliant with the subject’s human rights.

7.5. External Inspections are carried out from time-to-time by the Investigatory Powers Commissioner’s Office (‘IPCO’), so it is important that all documentation is properly completed and (where relevant) authorised to confirm that it is carried out on a lawful basis. The Council was last inspected by the IPCO in 2023. They were satisfied with the arrangements as reported through to the Committee in January 2024. The next inspection will not be due until 2026.

7.6. The Shared Anti-Fraud Service (‘SAFs’) does, utilise such powers and these are regulated through Herts County Council’s processes and attends our officer Corporate Enforcement meetings. Where relevant an officer(s) of NAFN (National Anti-Fraud Network) attends our quarterly corporate enforcement forum meetings and keep our enforcement officers and authorising officers up to date. Training is also provided via that forum by NAFN.

7.7. 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.

7.8. In terms of Communications data, the IPA provided an updated framework for lawful acquisition of Communications Data, include the who, where, what, when and how a Local Authority can obtain communications and Communications Data (Entity and Events Data)

- 7.9. All such applications must be processed through the NAFN as the Single Point of Contact (SPoC), who will consider the application prior to submitting this for approval to the Office for Communications Data Authorisations (OCDA). All applications must be approved before Communications Data is acquired. The Investigatory Powers Commissioner oversees the use of the powers. All applications submitted to NAFN are completed via their online portal. The form is available for completion within that workflow system and reflects the current Home Office application form. NAFN does not accept application forms outside of the workflow system and any application queries go via the NAFN RIPA SPoC. This means there is an experienced person quality controls and checks any applications considered / made by North Herts Council.

## **8. RELEVANT CONSIDERATIONS**

- 8.1. The Council maintains a Regulation of Investigatory Powers Act (RIPA) Policy to ensure that any use of covert surveillance or covert human intelligence sources is lawful, necessary and proportionate and subject to appropriate authorisation and oversight.

The existing policy has served the Council well and remains broadly sound. However, as part of good governance and routine policy maintenance, a review has been undertaken to ensure that the document reflects current legislation, guidance and operational practice.

### **Nature of the amendments:**

- 8.2. The amendments represent a targeted update and clarification of the existing policy rather than a fundamental change in approach.
- 8.3. The Council's position remains unchanged: the use of RIPA powers is expected to be rare and will only be considered where it is lawful, necessary and proportionate and where less intrusive options have been considered.
- 8.4. The revisions primarily focus on improving clarity, reflecting current practice and ensuring the policy continues to align with national guidance and expectations.

### **Governance and oversight**

- 8.5. The updated policy provides clearer description of the governance framework that supports the use of investigatory powers.
- 8.6. This includes refreshed wording on the roles of the Senior Responsible Officer, Authorising Officers and supporting officers, and clearer reference to Member oversight and reporting.
- 8.7. These changes are intended to improve clarity and transparency and to ensure the policy reflects current expectations around governance and assurance.

### **Legislative framework and communications data**

- 8.8. The revised policy provides clearer explanation of the relationship between RIPA and the Investigatory Powers Act 2016, particularly in relation to communications data.

- 8.9. This clarification helps ensure officers understand which legislative framework applies in different circumstances and supports correct and consistent application of the law.

#### **Online investigations and social media**

- 8.10. The policy has been updated to provide clearer guidance on the use of the internet and social media in investigations.
- 8.11. This reflects the increasing relevance of online information in enforcement activity and helps ensure officers understand when activity may require authorisation.
- 8.12. Necessity, proportionality and review arrangements
- 8.13. The updated policy provides additional clarity around the assessment of necessity and proportionality and reinforces the importance of regular review and timely cancellation of authorisations where appropriate.
- 8.14. These updates support consistency and good record keeping.

#### **Joint working, record keeping and training**

- 8.15. The policy has also been refreshed to provide clearer wording on joint working with other agencies, record keeping and retention, and training and awareness for relevant officers.
- 8.16. These updates ensure the policy remains aligned with current practice and guidance.

#### **Summary**

- 8.17. Overall, the amendments refresh and update the existing policy to ensure it remains clear, current and aligned with legislation, Codes of Practice and regulatory expectations.
- 8.18. The revisions do not change the Council's cautious approach to the use of RIPA powers but ensure the supporting governance framework remains up to date.

### **9. LEGAL IMPLICATIONS**

- 9.1. 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).
- 9.2. The Overview and Scrutiny Committee are asked to 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. Paragraph 5.6.1 of the Council's Constitution states that Cabinet may, by resolution, prepare and agree to implement policies and strategies other than those reserved to Council.
- 9.3. The Council is required to comply with the Regulation of Investigatory Powers Act 2000 ('RIPA') as amended in carrying out surveillance activities. Having an up-to-date policy ensures compliance with the statutory regime and empowers the Council to actively investigate matters if required to do so.

- 9.4. The updated policy supports the Council's ongoing legal compliance framework and helps ensure continued alignment with legislation and Codes of Practice.

## **10. FINANCIAL IMPLICATIONS**

- 10.1. There are no direct financial implications arising from approval of the updated policy.

## **11. RISK IMPLICATIONS**

- 11.1. Good Risk Management supports and enhances the decision-making process, increasing the likelihood of the Council meeting its objectives and enabling it to respond quickly and effectively to change. When taking decisions, risks and opportunities must be considered.
- 11.2. The primary risks addressed by this report are legal/regulatory and reputational risks arising from outdated or unclear policy.
- 11.3. The updated policy mitigates risk by strengthening governance, auditability, training, clarity on online activity, and alignment with data protection requirements.
- 11.4. Failure to maintain an up-to-date policy increases the risk of procedural errors, unlawful activity, evidential challenge and adverse inspection findings.

## **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. Covert activity engages privacy rights and must be applied fairly, proportionately and without discrimination.
- 12.3. The updated policy strengthens safeguards around proportionality, decision-making and oversight, which supports fair and consistent application.
- 12.4. An Equality Impact Assessment is not considered necessary for this policy update as it strengthens procedural safeguards and does not change service access arrangements.

## **13. SOCIAL VALUE IMPLICATIONS**

- 13.1. The Social Value 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 updated policy includes strengthened training and awareness expectations which will be managed through existing management arrangements and induction/refresher programmes.

**16. APPENDICES**

16.1 Appendix A – Updated RIPA Policy (final clean version)

16.2 Appendix B – Tracked changes version of the RIPA Policy (for transparency/assurance).

**17. CONTACT OFFICERS**

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**18. BACKGROUND PAPERS**

18.1 None.