

**SCRUTINY COMMITTEE
30 SEPTEMBER 2019**

**ANNUAL REPORT ON THE REGULATION OF INVESTIGATORY POWERS ACT
(RIPA)**

Cabinet Member(s): Councillor Nikki Woollatt, Cabinet Member for the Working Environment and Support Services

Responsible Officer: Kathryn Tebbey, Group Manager for Legal Services and Monitoring Officer

Reason for Report: to provide the annual report for the Scrutiny Committee on the Council's use of RIPA and any related matters

RECOMMENDATION: that the report be noted.

Financial Implications: None directly arising from this report.

Legal Implications: The use of RIPA powers is heavily regulated and scrutinised by the Investigatory Powers Commissioner's Office ("IPCO"). The legislation, combined with Codes of Conduct, sets the framework for the use of RIPA powers. For surveillance which is not within the scope of RIPA, the Council would still need to conduct a detailed privacy impact assessment before making a decision to carry out such surveillance in order to comply with the Human Rights Act 1998. Statutory guidance requires the Council to review its use of RIPA and the RIPA policy annually.

Risk Assessment: There are no risks directly arising from this report which is for noting. The Council has the necessary policy framework in place and training will soon be provided to officers on the recent changes to that policy, particularly in relation to the use of social media for investigations.

Equality Impact Assessment: None directly arising from this report, but human rights, including equalities matters, are at the heart of RIPA.

Relationship to Corporate Plan: Part and parcel of a well-managed Council.

Impact on Climate Change: None.

1.0 Background

1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) was put in place to ensure that the use of investigatory powers by certain organisations complies with the UK's obligations under the European Convention on Human Rights (ECHR) including Article 8 (the right to privacy). The proper authorisation of certain covert surveillance powers under RIPA ensures that the Council is acting in accordance with such human rights.

- 1.2 Following criticism of local authorities' use of covert surveillance powers additional safeguards were put in place including:-
- The need to obtain magistrate approval
 - Only be used to investigate offences which attract sentences of six months or more or relate to the underage sale of alcohol or tobacco.
- 2.0 **The Council and RIPA in the last 12 months**
- 2.1 Once again the Council has not used its RIPA surveillance powers in the last 12 months. The last time such powers were used dates back to 2014.
- 2.2 In September and October 2018, the IPCO conducted its 3 year review/inspection of the Council. This was a desktop exercise, rather than physical inspection. The IPCO was pleased with the level of compliance shown. The next inspection, in 2021, is likely to be a physical inspection.
- 2.3 Refresher training was commissioned for the key Council officers involved in RIPA, particularly at approval/authorisation level. This took place in November 2018 and was very useful.
- 2.4 The RIPA policy has been reviewed by the Community PDG on 20 August 2019 with recommendations to Cabinet (as set out in the report to the PDG) on 19 September 2019. This is the annual review that statutory guidance requires. On 19 September, Cabinet resolved in accordance with the recommendations made to it by the PDG. That report, together with the appendices to it, is a background paper – but appended to this report as Appendix 1 for ease of reference. The report explains in detail some of the issues surrounding social media and RIPA – and therefore the background to some of the changes made to the policy.

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Circulation of the Report: Cabinet Member seen

List of Background Papers: Report to Community PDG on 20 August 2019
Cabinet decision on 19 September 2019