

East Herts Council Report

Overview and Scrutiny Committee

Date of Meeting: 8 June 2020

Report by: James Ellis, Head of Legal and Democratic Services

Report title: Regulation of Investigatory Powers Act (RIPA) Policy Annual Review

Ward(s) affected: ALL

Summary

RECOMMENDATION FOR DECISION - THAT:

A. The Committee considers the content of the report and provides any observations to the Head of Legal and Democratic Services.

1.0 Proposal(s)

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

2.0 Background

2.1 The Council is required to have suitable arrangements and an up to date RIPA Policy in place. The current one was last approved by Executive on 7th July 2020 (updated together with the Social Media in Investigations Policy¹).

2.2 Members may recall that the IPCO had carried out a physical inspection of East Herts Council on 21st November 2019. The

¹ <http://democracy.eastherts.gov.uk/ieListDocuments.aspx?CId=119&MId=3752&Ver=4&J=3>

resulting report gave a recommendation of “Critical”, outlining several areas where the Council was not meeting legal requirements, and eight actions that were required to address them.

- 2.3 Whilst there has not been a fresh inspection since the adoption of the RIPA policy last year, the IPCO’s Chief Surveillance Inspector confirmed via e-mail on 9th September 2020 that she was happy to accept confirmation from the Head of Legal and Democratic Services that all the matters in the report had been addressed.
- 2.4 Having undergone such a comprehensive review and rewrite only 12 months ago, there are no changes that are required to the current policy and it remains fit for purpose.
- 2.5 There have been no new RIPA authorisations since the last report to this Committee on 16th June 2020.

3.0 Reason(s)

- 3.1 Whilst the Council does not actively make use of its RIPA powers, it is important that RIPA, the policy and its usage, or otherwise, are kept at the forefront of Members’ minds.

4.0 Options

- 4.1 To not annually review the policy, this is NOT RECOMMENDED as to do so would inevitably lead to the policy eventually becoming out of date and place the Council in a position where it was not meeting its legal obligations.

5.0 Risks

- 5.1 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.

6.0 Implications/Consultations

6.1 Not regularly reporting on the Council's use of RIPA would risk it slipping out of the consciousness of Members.

Community Safety

Yes – Allows the Council to legal make use of investigatory practices governed by RIPA, which could be utilised to protect communities from illegal activities.

Data Protection

No

Equalities

Yes - No RIPA investigations have been conducted by the council and so there is no data against which to assess the potential equalities aspects of RIPA use. If the council sought to use RIPA powers at some point, the equalities aspects would be considered at that time. The risk of having a policy that is not fit-for-purpose could lead to unintended equalities issues or risk of the perception of this.

Environmental Sustainability

No

Financial

No

Health and Safety

No

Human Resources

No

Human Rights

Yes – The use of powers under RIPA directly affects a person's right to respect for private and family life under Art 8 of the Human Rights

Act. It is imperative that RIPA is utilised correctly so as to make legal those potential intrusions.

Legal

Yes – 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.

Specific Wards

No

7.0 Background papers, appendices and other relevant material

7.1 None

Contact Member

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