

Gloucester City Council

Meeting:	Cabinet	Date:	13 November 2013
	Audit and Governance Committee		25 November 2013
	Council		28 November 2013
Subject:	Regulation of Investigatory Powers Act 2000 (RIPA) – Annual Review of Procedural Guide		
Report Of:	Chief Executive		
Wards Affected:	All		
Key Decision:	No	Budget/Policy Framework:	No
Contact Officer:	Sue Mullins , Head of Legal and Policy Development		
	Email: sue.mullins@gloucester.gov.uk	Tel:	39-6110
Appendices:	1. Procedural Guidance		

1.0 Purpose of Report

- 1.1 To request that Members review and update the Council's procedural guidance on RIPA.
- 1.2 To request that the use by the Council of its RIPA powers in the last year be noted.

2.0 Recommendations

- 2.1 Cabinet is asked to **RECOMMEND**, subject to any comments Cabinet wishes to make, that the changes to the Procedural Guide at Appendix 1 be approved;

and

to **RESOLVE** that the Council's use of its RIPA powers in the last year be noted.

- 2.2 Audit and Governance Committee is asked to **RESOLVE**, subject to any comments the Committee wishes to make, that

- (1) the proposed changes to the Council's RIPA Procedural Guide and the Council's use of its RIPA powers in the last year be noted.

- 2.3 Council is asked to **RESOLVE** that

- (1) the changes to the Procedural Guide at Appendix 1 be approved.

3.0 Background and Key Issues

- 3.1 The Regulation of Investigatory Powers Act 2000 (RIPA) came into force in 2000. Both the legislation and Home Office Codes of Practice strictly prescribe the

situations in which and the conditions under which councils can use their RIPA powers. All authorities are required to have a RIPA policy and procedure to which they adhere in using their RIPA powers.

- 3.2 The Council reviews and updates its RIPA Procedural Guide at least annually. The Council last updated its RIPA Procedural Guide in November 2012.
- 3.3 The Council's use of its RIPA powers is subject to annual reporting and triennial inspection by the Office of Surveillance Commissioners (OSC). The Council received its most recent inspection by the OSC on 27 July 2012. The suggestions for amendment and improvement of the Council's RIPA Procedural Guide arising from the inspection have been incorporated into the draft Procedural Guide at Appendix 1.
- 3.4 Since the changes made to the Council's RIPA powers by the Protection of Freedoms Act 2012, the Council has not made use of its RIPA powers. This is most likely due to the change restricting RIPA authorisations for directed surveillance to offences which carry a maximum custodial sentence of 6 months or more. It should be noted that most offences prosecuted by local authorities do not carry custodial sentences, either at all or of this length. As a result of this, it is not possible to say whether or not any changes to the Guide are required from an operational point of view.
- 3.5 Given the level of the Council's use of its RIPA powers, Cabinet has requested that reports on use of the Council's RIPA powers are made bi-annually rather than quarterly. This requested change is reflected in paragraph 5.5 of the attached Procedural Guide. A further minor change relates to a job title change for the RIPA Co-ordinator and this is shown at paragraph 6 of the Guide.

4.0 Alternative Options Considered

- 4.1 The Council still has and can make use of other investigatory powers, such as overt surveillance, when investigating potential criminal offences, but must comply with RIPA when it carries out Directed Surveillance or CHIS. There are therefore no real alternative options relevant to the Council's use of its RIPA powers.

5.0 Reasons for Recommendations

- 5.1 The revisions set out in the draft Procedural Guide are to ensure that the Guide remains up-to-date.

6.0 Future Work and Conclusions

- 6.1 Further revisions to the Procedural Guide may be required, depending on any changes to the legislation or statutory Home Office Guidance.

7.0 Financial Implications

- 7.1 There are no direct financial implications arising out of this report.

8.0 Legal Implications

8.1 These are set out in the main body of the report.

9.0 Risk & Opportunity Management Implications

9.1 Having a procedural guide that complies with the legislation and guidance and ensuring that officers using RIPA powers are fully trained in the use of the powers will help to reduce the risk of the Council using its RIPA powers unlawfully.

10.0 People Impact Assessment (PIA):

10.1 The impact of the changes to the RIPA legislation will have been considered by the Government during the drafting of the legislation. The RIPA legislation requires the Council to give substantial consideration to the people impact of using its RIPA powers each and every time a RIPA application is authorised.

10.2 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

11.0 Other Corporate Implications

Community Safety

11.1 The use of RIPA powers by the Council can contribute to ensuring community safety.

Sustainability

11.2 There are no sustainability implications arising out of this report.

Staffing & Trade Union

11.3 There are no staffing or Trade Union implications arising out of this report.

Background Documents: None.