

## Audit and Governance Committee

Date: 25/07/2024

<b>Title of Report</b>	Annual review of the Council's use of the Regulation of Investigatory Powers Act 2000 (RIPA)
<b>Purpose of Report</b>	To inform the Audit and Governance Committee regarding the Council's use of Directed Surveillance and Covert Human Intelligence Sources during 2023/24.
<b>Recommendations</b>	That the Audit and Governance Committee:  <ol style="list-style-type: none"><li>1. Notes the use of surveillance activities across the Council.</li><li>2. Agrees the conclusions to this report and supports the proposal to proceed with the outstanding recommended actions</li></ol>
<b>Reason for Recommendation</b>	<ul style="list-style-type: none"><li>• To comply with the recommendation contained in the statutory Code of Practice.</li><li>• To satisfy the Committee that Officers using surveillance techniques are doing so in an appropriate manner.</li></ul>
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### Executive Summary

The Regulation of Investigatory Powers Act (RIPA) came into force in 2000. The Act allowed:

- Councils to carry out covert surveillance of alleged offenders and to instruct individuals to form relationships with the intention of obtaining information for the prevention and detection of crime.
- Compliance with RIPA ensures that the surveillance actions taken by the Council are acceptable interference of qualified rights within the Human Rights Act 1998, in particular, the right to privacy and the right to a fair trial, when gathering evidence in preparing cases for Court.
- In accordance with the guidance issued by the Home Office to support the statutory Codes of Practice, it is recommended that Councillors are involved in an annual review of RIPA policies.

This report provides the annual review for 2023/24

## 1.0 Introduction

- 1.1 When undertaking its functions, the Council must comply with the Human Rights Act 1998. Article 8 establishes a qualified right to respect for private and family life. In certain circumstances that right may be interfered with.
- 1.2 RIPA provides a statutory framework under which the Council may interfere with this right.

## 2.0 Background

- 2.1 Authorisation can only be granted where interference is
  - (a) In accordance with the law.
  - (b) Necessary; and
  - (c) Proportionate.
- 2.2 Under RIPA, the Council may seek authorisation to permit directed surveillance or the use of Covert Human Intelligence Sources (CHIS). Directed surveillance is defined as any ongoing monitoring or observation activity undertaken by an officer of the Council designed to obtain information about the subject's movements, conversations, social media use, etc. where the subject remains unaware of the activity.
- 2.3 The Council's use of RIPA is tightly controlled. All authorisations are subject to approval at the Magistrates' Court and the use of directed surveillance and acquisition of communication data should only be permitted for:
  - (a) The prevention or detection of criminal offences (at least one of which must be punishable by a maximum of at least 6 months imprisonment); or
  - (b) Prescribed offences relating to age related sale of alcohol or tobacco
- 2.4 By law, elected members are not permitted to be involved in any individual application/authorisation, however paragraph 4.47 of the Covert Surveillance and Property Interference Code 2018 ('the Code') states that:

*Elected members of a local authority should review the authority's use of the 2000 Act and set the policy at least once a year. They should also consider internal reports on use of the 2000 Act on a regular basis to ensure that it is being used consistently with the local authority's policy and that the policy remains fit for purpose*

## 3.0 Oversight of RIPA activities

- 3.1 RIPA and associated statutory Codes of Practice prescribe the information to be included in an application to carry out directed surveillance activities and the thresholds to be met before applications can be approved.
- 3.2 All authorisations for directed surveillance activities carried out by Gloucestershire County Council (GCC) under RIPA must be independently reviewed and approved at a Magistrates' Court.
- 3.3 The Investigatory Powers Commissioners Office (IPCO) carries out scheduled audits of the use of RIPA by Local Authorities to monitor quality of applications and compliance with the Codes. GCC was last inspected on May 12, 2022.

That inspection was reported to this Committee in 21/22, and the observations of the Inspector and progress against them are laid out in the report for 22/23.

#### 4.0 Annual review of the use of RIPA – 1 April 2023 to 31 March 2024

During this period:

4.1 There has been one application, which was authorised, for directed surveillance which has been reviewed by the Assistant Director of Legal Services acting as Senior Responsible Officer (SRO) under the Code of Practice. The SRO is satisfied that authorisations were properly considered and managed.

4.2 Summary of application –

Reference	Activity under surveillance	outcome
TSS/2324/DS/198	Sales of nicotine inhaling products (vapes) to under 18s	Ongoing investigation

4.3 There were no applications to use CHIS, including applications relating to juvenile CHIS.

#### 5.0 Progress against matters outstanding from the previous report.

RAG		Issue to be addressed	Officer recommendations to address observations	Progress to date
01 (a)	<b>Training</b>	General awareness of RIPA through wider County Council	Consider the use of meta data and other methods to reach widest possible audience.	<b>Ongoing</b>  It has taken longer than anticipated to develop online Training in association with NAFN (previously the National Anti-Fraud Network).  Scripts are being finalised.  It is intended this will be rolled out across GCC officers once available.
01 (b)	<b>Resilience</b>	Consider recruitment of another Authorising Officer to establish some resilience in the process	Identify and train a second Authorising Officer	<b>Complete</b>  Deputy Chief Fire Officer has agreed to act as an authorising officer,

#### 6. Conclusions

- 6.1 Officers to proceed with the outstanding recommended actions with priority given to continued raising of awareness of the procedural guidance across the whole Council. Members are asked to confirm their support.
- 6.2 Officers will provide a further annual report to the Audit and Governance Committee in July 2025 updating on the progress regarding the recommendations and informing them on the Council's use of RIPA for the Committee's further consideration.