



CHELTENHAM

BOROUGH COUNCIL

Notice of a meeting of Cabinet

Tuesday, 16 April 2013
6.00 pm

Municipal Offices, Promenade, Cheltenham, GL50 9SA

Membership	
Councillors:	Steve Jordan, John Rawson, Rowena Hay, Peter Jeffries, Andrew McKinlay, Jon Walklett and Roger Whyborn

Agenda

SECTION 1 : PROCEDURAL MATTERS			
1.		APOLOGIES	
2.		DECLARATIONS OF INTEREST	
3.		MINUTES OF THE LAST MEETING Minutes of the meeting held on 12 March 2013	(Pages 1 - 6)
4.		PUBLIC QUESTIONS AND PETITIONS	
		SECTION 2 :THE COUNCIL <i>There are no matters referred to the Cabinet by the Council on this occasion</i>	
		SECTION 3 : OVERVIEW AND SCRUTINY COMMITTEE	
5.		LICENSING OF RICKSHAWS IN CHELTENHAM- REFERRAL OF THE OVERVIEW & SCRUTINY COMMITTEE The Chair of the Overview & Scrutiny Committee, Councillor Duncan Smith, will present the report.	(Pages 7 - 26)
6.		REPORT OF THE SEX TRADE SCRUTINY TASK GROUP The Chair of the Scrutiny Task Group, Councillor Barbara Driver, will present the report. The Cabinet Member Housing and Safety will then present his response to the report which is attached.	(Pages 27 - 48)
7.		REPORT OF THE UBICO SCRUTINY TASK GROUP The Chair of the Scrutiny Task Group, Councillor Andrew	(Pages 49 - 74)

	Chard, will present the report.	
	The Cabinet Member's response will then be presented by the Cabinet Member Sustainability which is attached.	
	SECTION 4 : OTHER COMMITTEES <i>There are no matters referred to the Cabinet by other Committees on this occasion</i>	
	SECTION 5 : REPORTS FROM CABINET MEMBERS AND/OR OFFICERS	
8.	REVIEW OF GLOUCESTERSHIRE HOMESEEKERS ALLOCATIONS POLICY Report of the Cabinet Member Housing and Safety	(Pages 75 - 84)
9.	3RD SECTOR REQUEST FOR RETAIL PREMISES AT 39 GROSVENOR STREET Report of the Cabinet Member Finance	(Pages 85 - 98)
10.	REQUEST FOR LEASEHOLD DISPOSAL OF OPEN SPACE AT COX'S MEADOW, OLD BATH ROAD. Report of the Cabinet Member Finance	(Pages 99 - 104)
11.	COMPULSORY PURCHASE RESOLUTION - 8 GOLDEN MILLER ROAD Report of the Cabinet Member Finance	(Pages 105 - 114)
12.	QUARTERLY BUDGET MONITORING REPORT (AS AT END OF FEBRUARY 2013) Report of the Cabinet Member Finance	(Pages 115 - 134)
13.	REGULATION OF INVESTIGATORY POWERS (RIPA) - REVISED POLICY GUIDELINES Report of the Cabinet Member Corporate Services	(Pages 135 - 178)
	SECTION 6 : BRIEFING SESSION <ul style="list-style-type: none"> • Leader and Cabinet Members 	
14.	BRIEFING FROM CABINET MEMBERS	
	SECTION 7 : DECISIONS OF CABINET MEMBERS AND OFFICERS Member decisions taken since the last Cabinet meeting	
	SECTION 8 : ANY OTHER ITEM(S) THAT THE LEADER DETERMINES TO BE URGENT AND REQUIRES A DECISION	
	Section 10: BRIEFING NOTES (Briefing notes are circulated for information with the Cabinet papers but do not form part of the agenda) 1. Update: council activity on adapting to climate change	

		2. Lessons learnt from service disruption to waste and recycling	
		Contact Officer : Beverly Thomas Email: democratic.services@cheltenham.gov.uk	

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Cabinet

Tuesday, 12th March, 2013

6.00 - 6.35 pm

Attendees	
Councillors:	Steve Jordan (Leader of the Council), John Rawson (Cabinet Member Finance), Peter Jeffries (Cabinet Member Housing and Safety), Andrew McKinlay (Cabinet Member Built Environment), Jon Walklett (Cabinet Member Corporate Services) and Roger Whyborn (Cabinet Member Sustainability)
Also in attendance:	Councillor Anne Regan

Minutes

1. APOLOGIES

Apologies were received from Councillor Rowena Hay.

The Leader informed Members that the call-in report from the Overview & Scrutiny Committee was originally scheduled for this meeting but would now come to the April meeting of Cabinet.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES OF THE LAST MEETING

The minutes of the meeting held on 5 February 2013 were approved and signed as a correct record.

4. PUBLIC QUESTIONS AND PETITIONS

There were none.

5. REPORT OF THE ALLOTMENTS SCRUTINY TASK GROUP

Cllr Regan, Chair of the Scrutiny Task Group Allotments, was invited to address Cabinet. In introducing the Task Group report she thanked the members and officers who had been involved and explained that the group had made 11 recommendations to Cabinet. A further recommendation regarding reviewing and revising the terms of the current allotment tenancy agreement had been put forward by the Cabinet Member Sustainability partly in response to the Task Group's recommendation that the process of enforcement of allotments needed to be revised to ensure that uncultivated plots were being managed. She hoped that the up to £600 000 allocated by Council for the development of new plots at Priors Farm would be allocated in full to address the demand in the town. Cllr Regan also highlighted the need for full resourcing of the Green Space Development team to provide support for allotments. Finally she clarified that the review in 12 months time would be undertaken by the Overview & Scrutiny Committee as opposed to reconvening the task group.

In response to a question regarding addressing the waiting list by splitting full sized plots Cllr Regan confirmed that this was already been done. The Leader of the Council also confirmed that the recent Council decision was to agree funding up to £600 k for satisfying allotment demand.

The Cabinet Member Sustainability thanked the task group for its report and the officers and members involved. The task group had made some constructive recommendations which he supported subject to feasibility and resources. The Cabinet Member went through each recommendation in turn. He confirmed that the development of plots at Priors Farm would be progressed albeit in a way that would satisfy the maximum number of people across the whole town, not just those living in close proximity to the site. Alongside this officers are reviewing waiting lists and addressing issues with ploholders not adhering to their tenancy agreements. In terms of the task group recommendation relating to additional resources he stated that this would not be possible, it was a question of maximising existing resources and using site wardens to the maximum.

The Leader of the Council thanked the Scrutiny Task Group for its useful piece of work and all those involved.

RESOLVED that

- 1. The recommendations of the Scrutiny Task Group Report as laid down in paragraph 7.1 of the report be approved subject to feasibility and resources.**
- 2. Authority be delegated to the Executive Director in consultation with the Cabinet Member for Sustainability and the Borough Solicitor to review and revise the terms of the Authority's current allotment tenancy agreement and enter into the new tenancy agreements with plot holders to enable the new terms to be effective from 1 January 2014 (as outlined in the Allotment Management implications of this report).**
- 3. It be noted that O&S have scheduled a follow up to the implementation of the recommendations in 12 months time.**

6. PRE-APPLICATION FEES FOR LICENSING APPLICATIONS

The Cabinet Member Housing and Safety introduced the report which concerned the introduction of a discretionary pre-application assistance and advice service in respect of licensing applications. This would be beneficial as it would enable the Council to produce better quality of licensing applications which would benefit persons resident or present in Cheltenham.

In response to a question, the Cabinet Member confirmed that the officer undertaking pre-application advice would not have any subsequent involvement with that individual application.

RESOLVED that

The introduction of a discretionary pre-application service and charges for new and full variation applications made under the Licensing Act 2003 be approved.

7. LICENSED VEHICLES TESTING STATIONS

The Cabinet Member Housing and Safety introduced the report and explained that the Licensing Committee had established a working group in October 2011 to investigate the Council's current arrangements for testing licensed vehicles. The working group recognised a need for a fallback option should the Council's approved testing station become unable to test vehicles. Officers have noted the working group recommendations and following discussions with Ubico are satisfied that in practice the working group recommendation has already been implemented.

RESOLVED that

- 1. the contents of this report be noted**
- 2. the working group recommendation at paragraph 1.3 has been implemented and that no further action is required.**

8. CLIMATE LOCAL INITIATIVE

The Cabinet Member Sustainability introduced the report and explained that the Climate Local initiative replaced the Nottingham declaration, which CBC had signed in 2002. Signing up to the initiative will reinforce the Council's commitment to reducing carbon emissions from council activities by 30 % by 2015 from a 2005/6 baseline and the Council's aspiration to reduce carbon emissions by 40 % by 2020. Actions that will be undertaken include working towards Bee Guardian Town status, developing a tree strategy and working with Severn Wye Energy Agency to support the community on climate change mitigation.

The Cabinet Member invited Gill Morris, Climate Change and Sustainability Officer, to address Cabinet. She highlighted that signing up to the Climate Local initiative reaffirmed the council's public commitment to carbon reduction and the actions identified comprised in-house improvements, assisting the community in adopting measures to tackle climate change and covered services which had been commissioned.

In response to a question on how CBC fared in comparison to neighbouring authorities, the Climate Change and Sustainability Officer explained that Stroud was leading the way but Cheltenham was doing well.

The Leader of the Council highlighted that it was important that the Council contributed to tackling climate change and whilst it was difficult in a recession, it could not afford not to do it.

RESOLVED that

- 1. the Authority signs up to the Local Government Association's Climate Local Commitment set out in appendix 2**
- 2. the Authority's commitments and actions to Climate Local are to be those set out in appendix 3**

9. REVIEW OF THE SAFEGUARDING CHILDREN AND VULNERABLE ADULT POLICY

The Cabinet Member Housing and Safety introduced the report which outlined the changes to the Safeguarding Children and Vulnerable Adult Policy further to national changes and local protocols and training pathways. He highlighted that this was a “live” policy which was continually examined as part of the core work of the council. He thanked those officers involved in producing it.

The Cabinet Member Finance welcomed the policy which he believed represented a step forward in making the policy more accessible to staff, more up to date and which strengthened the policy with regard to child sexual exploitation. Whilst the council was one of a number of agencies involved in safeguarding this should not reduce the significance of the policy and would assist in carrying out the council’s responsibility for children and young people.

Members agreed that every member of staff and every member of the Council should be taking an interest in the subject.

RESOLVED that

The revised policy, procedures and guidelines as set out in the Cheltenham Borough Council Safeguarding Handbook be adopted– attached as appendix 2

10. CHELTENHAM DEVELOPMENT TASK FORCE BUSINESS PLAN 2013-15

The Cabinet Member Built Environment introduced the report on the Cheltenham Development Task Force Business Plan 2013-2015. He explained that the Task Force been very successful over the last three years. He gave the examples of the Midwinter development, the securing of Local Sustainable Transport Funding for Boots Corner, Brewery Phase 2 and North Place and Portland Street. These projects had been significantly aided by the activities of the Task Force in a time of economic recession.

The initial 3 year timeframe for the business plan had now elapsed and to build on the good work achieved to date Cabinet was now being asked to approve the 2013-2015 business plan. The Cabinet Member explained that as the Task Force was purely an advisory body, the targets were predicated up on resources (capital and revenue) being available from founding partners and therefore represented estimates of what it would cost.

The success of the Task Force was due to the work of CBC officers, County Council officers and representatives from the wider community, including the Chamber of Commerce. He commended them on their work.

The Cabinet Member Finance paid tribute to the personal time key people had put into the work of the Task Group such as Graham Garbutt and Diane Savory. He welcomed the joined up thinking between the public and the private sector which had attracted sources of funding, particularly in difficult economic circumstances.

Cabinet Members welcomed the work of the Task Force.

The Leader of the Council thanked all those who participated in Taskforce meetings which had produced great benefits for the town.

RESOLVED that

1. **the successful progress made by the Task Force since it's inception be noted**
2. **the continuation of the Task Force be supported**
3. **the new Business Plan for the next 3 year period subject to funds being approved by full Council in due course be approved.**

11. CORPORATE STRATEGY-2013-14 ACTION PLAN

The Leader of the Council explained that the Corporate Strategy would be submitted to Council on 25 March. It represented the fourth year of actions from a five year plan. It included measures and performance targets and actions from partnership discussions. Further discussions were needed on resourcing. The action plan had been submitted to Overview and Scrutiny whose comments included bringing the draft action plan to the December meeting of O&S to review the priorities for the plan and identify any gaps. The Leader suggested that it would be more appropriate to bring the draft to the budget working group to assess whether the targets were achievable within the resources available as this was more of a continuous process.

RESOLVED that

the draft corporate strategy action plan be endorsed for 2013-14 ahead of it going to full council for final approval (appendix A.)

12. BRIEFING FROM CABINET MEMBERS

The Cabinet Member Sustainability informed Members that all allotment tenants would be receiving a new tenancy agreement over the next few months.

**13. LOCAL GOVERNMENT ACT 1972 - EXEMPT BUSINESS
RESOLVED**

That in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraph 3 and 5, Part (1) Schedule (12A) Local Government Act 1972, namely:

Paragraph 3; Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Paragraph 5: Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

**14. EXEMPT MINUTES
RESOLVED**

That the exempt minutes of the meeting held on 5 February 2013 be approved and signed as a correct record.

Chairman

Cheltenham Borough Council

Cabinet

16 April 2013

Call-in of Rickshaw Decision made at Cabinet meeting on 11 December 2012

Report of the Overview and Scrutiny Committee

Accountable member	Councillor Duncan Smith, Chair of Overview and Scrutiny Committee
Accountable officer	Andrew North – Chief Executive and the Lead Officer for the committee
Ward(s) affected	All
Key/Significant Decision	No
Executive summary	<p>A call-in request was received from Councillor Rob Garnham on 20 December 2012 relating to the decision made at Cabinet on 11 December 2012 regarding the licensing of rickshaws in Cheltenham (see Appendix 3 for minutes of the meeting). The request was received within the call-in period and approved by the Chief Executive as a valid call-in.</p> <p>The request (attached as Appendix 1) was considered by the Overview and Scrutiny Committee on 23 January 2013.</p> <p>The O&S committee considered the facts of the call-in together with the evidence presented to them. They had the opportunity to question in detail the Cabinet Member Housing and Safety and the Business Support and Licensing Team Leader who had provided professional officer advice to Cabinet on this issue. They also listened to the views of the applicant Mr James Meyer at the meeting and were able to put any questions to him.</p> <p>After some debate and after considering carefully their options under the Council's Constitution, the committee decided to refer the decision back to Cabinet asking them to reconsider it for the reasons set out in this report. The minutes of that meeting are attached as Appendix 2.</p>
Recommendations	<p>The Cabinet is recommended:</p> <ol style="list-style-type: none"> 1. Consider the conclusions of the Overview and Scrutiny committee set out in this report 2. Reconsider the decision taken by Cabinet on 11 December 2012 to defer the decision.

<p>Financial implications</p>	<p>There are no financial implications arising from this report.</p> <p>Contact officer: Sarah Didcote</p> <p>sarah.didcote@cheltenham.gov.uk, 01242 264125</p>
<p>Legal implications</p>	<p>This matter has been referred back to Cabinet to reconsider the situation on whether or not to have a Policy on Rickshaws. The report rehearses the issues considered by Overview and Scrutiny Committee following the call in of the Cabinet decision to defer the matter at its meeting of the 11th December.</p> <p>Cabinet must consider the recommendations of Overview and Scrutiny and reconsider the original decision.</p> <p>The Council is responsible for the licensing of Hackney Carriages within the Borough of Cheltenham. As part of the licensing regime the Council can introduce policies which provide guidance on the requirements that the Council will seek when determining applications.</p> <p>Rickshaws fall under the definition of Hackney Carriages. A person can therefore apply for a Hackney Carriage Licence in respect of a rickshaw even in the absence of a policy. The current hackney carriage policy does not deal with rickshaws and many of the requirements for Hackney Carriages would not be met if an application was received in respect of a rickshaw. The Council, could not however automatically dismiss an application and the Council would need to consider each application, through its Licensing Committee, on its own merits.</p> <p>There are no statutory or national guidelines or standards regarding the licensing of Rickshaws. If however the Council grants any Hackney Carriage Licences in respect of Rickshaws the Council can grant those licences subject to conditions (which can include condition standards for design, use and safety) that the Council feel are necessary and proportionate.</p> <p>The Policy will provide support for any decision on a specific application. Any lack of a Policy is unlikely to assist the Council. The adoption of a policy will not mean that an application will be granted. The Council will need to consider any application and determine whether the application should be granted. If an application is refused the applicant has a right of appeal to the Crown Court.</p> <p>Contact officer: Sarah Farooqi</p> <p>sarah.farooqi@tewkesbury.gov.uk, 01684 272693</p>
<p>HR implications (including learning and organisational development)</p>	<p>There are no direct HR implications detailed in this report.</p> <p>Contact officer: Julie McCarthy</p> <p>julie.mccarthy@cheltenham.gov.uk, 01242 264355</p>
<p>Key risks</p>	<p>Refer to Cabinet report 12 December 2012</p>

Corporate and community plan Implications	Refer to Cabinet report 11 December 2012
Environmental and climate change implications	Rickshaws offer an environmentally friendly alternative form of public transport.

1. Background

- 1.1 A call-in request was received from Councillor Rob Garnham on 20 December 2012 relating to the decision made at Cabinet on 11 December 2012 regarding the Licensing of Rickshaws in Cheltenham. The request (attached as Appendix 1) was received within the call in period and signed by Councillors Penny Hall, Diggory Seacome and Jacky Fletcher. The request was received by the Proper Officer, the Chief Executive, Andrew North in accordance with the procedures set out in Part 4D – Overview and Scrutiny Rules – Rule 14. The Proper Officer agreed that it was a valid call in request.
- 1.2 Under the rules of call-in, the request must be considered at a meeting of the O&S committee within 10 working days. As the meeting already scheduled for 10 January was within this period, it was added to the agenda for this meeting. At this meeting the O&S committee resolved to refer the call in to a later meeting of O&S when all the witnesses would be available.
- 1.3 Having considered the facts of the call-in and having received any representations from the member(s) who submitted the request and the decision maker, the options for O&S are set out in paragraphs 14.13 of the Rule 14 in the Constitution.
- 1.4 The request was considered by the Overview and Scrutiny Committee on 23 January 2013.
- 1.5 The O&S committee considered the facts of the call-in together with the evidence presented to them. They had the opportunity to question in detail the Cabinet Member Housing and Safety and the Business Support and Licensing Team Leader who had provided professional officer advice to Cabinet on this issue. They were also provided with written evidence on the operation of rickshaws in Hereford from the Licensing Manager at the council. They also listened to the views of the applicant Mr James Meyer at the meeting and were able to put any questions to him.
- 1.6 After some debate and after considering carefully their options under the Council's Constitution, the committee decided to refer the decision back to Cabinet asking them to reconsider it for the reasons set out in this report

2. Reasons for recommendations

- 2.1 The reasons for the call-in were set out in the call-in request which is attached as Appendix 1. The members requesting the call-in felt the decision had not been made in accordance with one or more of the Principles of Decision making as set out in Article 13 of the Constitution.
- 2.2 The O&S committee considered these carefully and their conclusions are set out in the following paragraphs.
- 2.3 **13.1 (b) the decision shall be proportionate to the desired outcome;**
 - 2.3.1 It was clear to the committee that the desired outcome for Mr Meyer was a definitive ruling on whether or not the council was prepared to license the use of rickshaws in Cheltenham.
 - 2.3.2 Furthermore in the interests of good governance and public policy, a decision should be made that is clear and unambiguous so as to guide officers, members and the public as to the council's policy and intention.
 - 2.3.3 The evidence presented suggested that the officer's advice provided clear policy positions that would support a decision to licence or not to licence rickshaws.
 - 2.3.4 The decision to defer left the Council with a current policy which was unsuitable for considering rickshaw license applications and the Cabinet Member made it clear that he felt Cabinet was not in a position to make a decision on whether or not the council should license rickshaws until the legislation was in place.
 - 2.3.5 The matter was furthermore complicated by the fact that any change to policy would have to be

approved by Council on the recommendation of Cabinet.

- 2.3.6** However the failure of the Cabinet to make their intent clear by taking a clear decision undermined their intent and created uncertainty as to the council's position.
- 2.3.7** The deferral was made pending the outcome of the review of licensing provisions by the Law Commission. Whilst these were scheduled to report in '2013/14' it was widely agreed that legislation would not be expected to be in place before 2017. The potential delay before the matter would be considered again was considered unacceptable by the committee and it was felt that a clear decision should be made quickly.
- 2.3.8** The committee concluded that the matter should be referred back to Cabinet. It was proposed that having reflected on the process, on the evidence provided to O&S and subsequent advice from officers, Cabinet should agree a clear recommendation in favour or against changing the current policy and refer the matter to full Council for endorsement.
- 2.4 13.1 (d) the decision should be taken following due consultation and on the taking of professional advice from Officers;**
- 2.4.1** From the evidence we heard it was clear that both the licensing officer and the Cabinet Member had looked at the experiences in other councils. They were aware of the difficulties in using the current legislation and how other councils had overcome these. Officers also made Cabinet aware of the safety issues.
- 2.4.2** From the evidence of the licensing officer, it was clear that in the report to Cabinet of 11 December, officers were recommending a draft policy which in their professional opinion could be used to support the licensing of rickshaws in the town. However officers told us that the decision as to whether the council wanted to licence rickshaws rested clearly with the Cabinet.
- 2.4.3** The Cabinet Member suggested that the key concern was the matter of public safety. However little evidence was provided that suggested Rickshaws were inherently unsafe or that the public would be at any more risk than when using other licensed vehicles in the town.
- 2.4.4** The Cabinet Member accepted that a business could provide a rickshaw service in Cheltenham without a licence. Furthermore he accepted members comments that a licensed service would be inherently safer than an unlicensed one.
- 2.4.5** Examples were given where accidents had happened but the focus on these isolated examples appeared to be given greater weight than the overwhelming evidence of safe practice across the country.
- 2.4.6** We conclude that the evidence surrounding the safety of rickshaws should be reconsidered. A reassessment should be made of the evidence and the arguments in favour and against licensing a service on the grounds of public safety to ensure that a disproportionate emphasis has not been given to one side or the other. If Cabinet were minded to defer the decision on the grounds of safety issues they need to support this with a clear and specific statement about exactly what these concerns relate to so that they can be addressed by potential applicants in any subsequent applications.
- 2.5 13.1 (f) there should be a presumption in favour of openness;**
- 2.5.1** The call-in request suggested that the whole process of arriving at a Cabinet decision had not been conducted in a transparent and open manner and the applicant had not been given satisfactory explanations for the delays.
- 2.5.2** In the interests of good governance, transparency and accountability, decision making should be clear and timely.
- 2.5.3** From the evidence of the applicant, it was clear that Mr Meyer felt very strongly that the matter should not have taken 10 months and required a call-in to scrutiny for him to get some clarity as to the council's intent.
- 2.5.4** It was clear that he was given to believe that resolution of this matter should take 3-4 months. The

evidence received by the committee suggested that there was a failure of the authority to act within an appropriate timescale and to clearly communicate with Mr Meyer and manage his expectations.

2.5.5 Much was made of the changes to Cabinet Members, the election cycle and the Cabinet timetable as valid reasons for the delay. This was not generally accepted. Council business and the interests of the public should not be undermined or compromised by the political cycle. The council officers should be able to progress matters and brief members in a timely manner that does not lead to unacceptable delays.

2.5.6 The Chief Executive should look at the process and consider where practice can be improved to ensure that members of the public are kept well informed and do not suffer unnecessary delays. Consideration should be given to the public's expectation that the council should act in a reasonable and timely manner when handling a service request, license/planning application or complaint.

2.6 13.1 (g) there should be clarity of aims and desired outcomes;

2.6.1 As we said in paragraph 2.3.1 there is still no clarity of aims or desired outcomes for the applicant or any other potential rickshaw businesses who may want to operate in Cheltenham.

2.6.2 This should be remedied by a clear decision being taken by Cabinet with referral to Council for approval.

2.7 13.1 (i) the options considered and the reasons for the decision shall be clearly set out

2.7.1 The call-in request claimed that the Cabinet decision on 11 December did not "clearly set out" when the final decision would be taken and it was left to some unspecified date. This was not compatible with good governance and the Council's responsibility to promote business and economic development in the town.

2.7.2 As noted above, there were concerns that the consideration of the options and evidence presented to Cabinet had not been properly balanced, was not clearly recorded and had not been effectively communicated to the public. Referral back to Cabinet should afford an opportunity for these concerns to be addressed.

2.7.3 The committee took evidence that there were economic benefits that could benefit the town and were encouraged that a local business was willing to come forward and invest in a new venture in Cheltenham.

2.7.4 However, whatever the final outcome of the referral back to Cabinet, members expressed concerns that the handling of this matter had sent out a negative message to the public and local business. The delays in the process and the lack of clarity around the decision making process had undermined the reputation of the council.

2.7.5 The council wants to be an advocate for local business and to promote an environment where it can be a proactive and supportive partner. Consideration should be given to internal processes and timescales to ensure that the Council's response to local businesses is clear and timely.

3. Alternative options considered

3.1 The O&S committee considered whether they could refer the matter to Council and request that Council insists that Cabinet bring forward a policy for licensing rickshaws. We were advised by an officer from One Legal that this was not an appropriate function for Council. However we also understood that a member could raise a motion at Council making the same request.

3.2 At this stage, we considered that the decision should be referred back to the decision maker, in this case Cabinet, as this was the option most likely to produce an outcome for the applicant in the shortest timescales. This would be accompanied by a request that Cabinet should reconsider the evidence and then either determine to retain the existing policy or to adopt the new policy proposed by the officer report. This decision should then be referred to Council for approval.

4. Consultation and feedback

4.1 A lengthy debate was held at the O&S committee and evidence heard from a variety of witnesses and this is all set out in the minutes of that meeting in Appendix 2 to this report.

5. Performance management –monitoring and review

5.1 Overview and Scrutiny Committee will review the outcome of consideration of this report by Cabinet. However committee does expect Cabinet to determine the matter quickly so that Council can approve its recommendation before the end of April.

Contact officer	Contact officer: Rosalind Reeves, Democratic Services Manager Rosalind.Reeves@cheltenham.gov.uk, 01242 77 4937
Appendices	<ol style="list-style-type: none"> 1. Call-in request 2. Extract of the Minutes of O&S meeting 23 January 2013 3. Extract from the minutes of Cabinet 11 December 2012
Background information	<ol style="list-style-type: none"> 1. Report and the minutes of Cabinet 25 September 2012 and 11 December 2012

Call-in Licensing of Rickshaws in Cheltenham - Cabinet Decision made on 11th December 2012.

The reasons for the call-in of this decision are because the decision was not made in accordance with one or more of the Principles of Decision Making as set out in Article 13 of the Constitution namely:-

13.1 shall be made in accordance with the following principles:

(b) the decision shall be proportionate to the desired outcome;

The desired outcome is a ruling on whether or not CBC will license the use of rickshaws in Cheltenham. The decision has still not been made and has been deferred for an indefinite period. There is no known date when a decision will be made but it is left *“until the outcome of the taxi and private hire licensing law reform review by the Law Commission is published in 2013/14.”* Even if an “outcome” of the review is made there is no known timetable for when it may become law.

This is the second time Cabinet have made a decision that is not proportionate to the desired outcome. In September the Cabinet decided, “To defer the item to a future meeting of Cabinet”.

(d) the decision should be taken following due consultation and on the taking of professional advice from Officers;

Professional advice of Officers did not explain the context of the fact that the City of Westminster has more rickshaws in operation than the whole of the rest of the UK. In total, during 2011, there were upwards of two million journeys and there were just 8 collisions involving rickshaws. No serious injuries resulted and no passengers were injured.

There was insufficient reference to Hereford Council who have been operating licensed rickshaws since 2006. The explanation given of “the difficulty of drafting a new licence” (as mentioned at Cabinet) is clearly invalid given another council has already taken this step.

(f) there shall be a presumption in favour of openness;

The whole process of arriving at a Cabinet decision has not been conducted in a transparent and open manner. Firstly there was an inappropriate delay in actually bringing the item to committee in December. Secondly, no valid reasons have been given for the delay in coming to the decision made by Cabinet on either the 25th September nor the 11th December. It would appear that the “official” reason for the delay in September was that, *“The proposal had been delayed due to the local government elections in May 2012, the change in Cabinet member, the summer recess and constitutional changes.”* Delays in December are because of “ongoing safety concerns”.

(g) there shall be clarity of aims and desired outcomes;

As for (b) above.

(i) the options considered and the reasons for the decision shall be clearly set out.

When a final decision is to be taken is not “clearly set out” and left to some unspecified date. This is not compatible with good governance and the Council’s responsibility to promote business and economic development in the town. Also, as in (d) above, not all relevant options have been considered.

Cllr Rob Garnham

20.12.2012

This notice of call-in has been signed by the following four members (signatures on attached sheet).

**Councillor Rob Garnham, Councillor Penny Hall, Councillor Diggory Seacome
Councillor Jacky Fletcher**

CABINET-16 APRIL 2013**EXCERPT OF MINUTES OF OVERVIEW & SCRUTINY COMMITTEE-23/01/13****CALL-IN LICENSING OF RICKSHAWS IN CHELTENHAM**

The committee was asked to consider a call-in request regarding a decision made at Cabinet on 11 December 2012 regarding the licensing of rickshaws. As this was the first call-in to come to this committee, the chair explained how he intended to run the procedures.

Councillor Garnham, as one of the four members who had signed the call-in request, was invited to put the case for the call-in. Councillor Garnham felt that the council should be encouraging people like Mr Meyer who wanted to set up small businesses in the town however this was not the reason for the call-in. The reason he gave was that the Cabinet decision to defer any decision to an unknown date in the future, was not fair to the applicant and he should be given a yes or no answer. There appeared to be examples in London and Hereford of both unlicensed and licenced rickshaws working effectively with no significant safety problems. He considered the decision was not proportionate, there had been insufficient consultation and no presumption in favour of openness for the reasons set out in the call-in request.

In response to a question from a member, the Democratic Services Manager, advised that the witness questions circulated with the agenda had been drawn up based on the reasons given for the call-in and in consultation with the chair. They had been circulated to lead members of this committee and the signatories of the call-in request for comment. As a result additional questions had been incorporated before circulating them to witnesses to assist them in their preparation for this meeting.

The chair invited the Cabinet Member Housing and Safety to respond to the questions circulated to him in advance of the meeting and suggested members may wish to ask additional questions. Before answering the questions, the Cabinet Member referred members to the background set out in section 1.3 of the Cabinet report of 11 December 2012. He also advised members that nothing that the Cabinet or officers had done would stop Mr Meyer operating rickshaws in Cheltenham on an unlicensed basis. The issue in question was purely a licensing one..

Does the Cabinet Member think it is an acceptable outcome to defer the decision to an unspecified date in the future?

In response, the Cabinet Member considered that it was acceptable and the decision was proportionate to the desired outcome. Licensing was concerned with public safety and the Cabinet had considered it from a public safety angle and concluded that safety considerations would not be satisfied by trying to shoehorn the operation of rickshaws into the existing safety regulations.

Can you explain the reasons for the delays in dealing with this matter?

The Cabinet Member noted that this committee had delayed the consideration of this call-in and similar sorts of delays happened in the Cabinet decision-making process. The first delay was due to changes to the council's Constitution in May 2012. Previously a draft licensing policy would have been considered by the Licensing Committee and then forwarded to Council for approval. The change in the Constitution required the draft policy to be considered by Cabinet in consultation with the Licensing Committee and then forwarded to Council by Cabinet for approval. Following the borough council elections there had been no Executive meetings in May and this together with the change in Cabinet Members and summer recess may

have caused some delay. He emphasised that this was part of the nature of Cabinet reporting and reminded members that this issue had been the subject of three Cabinet reports over a period of time including a public consultation period. He personally had tried to speed up the process by shortening the consultation period with the agreement of all parties.

The City of Westminster has more rickshaws in operation than the whole of the rest of the UK. In total, during 2011, there were upwards of two million journeys and there were just 8 collisions involving rickshaws. No serious injuries resulted and no passengers were injured. Were you aware of that and if so given that experience why do you still have concerns about the safety of rickshaws if operated in Cheltenham?

The Cabinet Member advised that following the receipt of responses from the consultation regarding safety issues, he had done some personal research on safety issues and had been horrified by what he had discovered. In London, the Metropolitan police, had to resort to an ancient Act of Parliament to deal with the large volume of unlicensed rickshaws. As a result of this operation many of the operators had been stopped, fined or their vehicles impounded. They also found that many of the rickshaws in the town had been illegally adapted to run on car batteries. He also questioned the figure of only eight collisions involving rickshaws as this did not take into account accidents involving bicycles or pedestrians and therefore was not a true reflection of their safety.

The chair asked how the Cabinet Member had applied his research to the operation of rickshaws in Cheltenham? Was his main concern that there would be a significant number of accidents or that a large amount of police time may be spent in monitoring the safety of rickshaws?

The Cabinet Member considered that the differential in London was that the rickshaws were unlicensed and therefore were not being endorsed by the council as safe to carry passengers. In Edinburgh, rickshaws had been dealt with under street trading licences and in Edinburgh there had been two fatal accidents, one where someone had fallen out of a rickshaw and another where a female passenger had broken her neck when her scarf had got tangled in the rickshaw's wheels. It would be a huge piece of work to pin down the safety information from all the research across the country and therefore it came down to making a judgement call. He had also referred to the report by the Transport Research Laboratory (TRL) which had highlighted safety related issues relating to rickshaws. His decision was based on the fact that there was evidence of lots of accidents and problems regarding rickshaws. If the council were to license rickshaws the public perception would be that the council were endorsing their safety. In his view he was not in a position to reduce the safety risks associated with rickshaws sufficiently to give such an endorsement.

How many rickshaws had been requested in Mr Meyer's application and if the Cabinet Member had not asked this question how was he able to quantify the risk and make an informed decision?

The Cabinet Member advised that there had been no specified number in Mr Meyer's enquiry and subsequently he had received another two enquiries from other people. He advised that if the council were to license rickshaws under the Hackney Carriage regulations then they would not be able to restrict the numbers in any way and therefore the resulting number of rickshaws could grow exponentially.

Members questioned whether it would be preferable to go ahead and license rickshaws in some way rather than allow them to operate unlicensed way which research showed had been dangerous in London? Why hadn't the Cabinet Member looked at how rickshaws are being operated in Hereford where they appeared to be operating safely? Surely licensing rickshaws would give the council a degree of control over rickshaw operation which they would not have if they were forced to operated in an unlicensed way?

The Cabinet Member suggested that it was an easy assumption to make that any form of licensing was better than unlicensed operations. However in order to mitigate the safety risks, the policy for rickshaws would have to be very restrictive. The situation in Hereford was very different as they were not being operated as taxis. His understanding in this case was that the council was being asked to license rickshaws as a Hackney Carriage License. The licensing process was concerned with enhancing public safety. As the council was not in a position to enhance the safety of rickshaws, the decision had been taken to defer the decision until the necessary legislation was in place. Whatever was happening in other councils, the provision of a licensed rickshaw service in Cheltenham would provide the public with a choice of opting for a quality standard or going for an unlicensed provider.

(At this point Mr Meyer clarified that his request had been for a rickshaw license and he had not made any specific reference to a Hackney Carriage License)

Was it right that people trying to run a business should expect a response from the council in a reasonable time to allow them to plan their future operations particularly if the business was seasonal? Could the process have been speeded up by setting up a Cabinet Member working group to consider common practice and adopt the best practice available at this time? What steps did the Cabinet Member take to drive the process forward in a reasonable time scale?

In response the Cabinet Member referred to his previous response highlighting that there had been three reports and a consultation period. There had been a period of three months between the application and the first Cabinet report with an election in the middle of this period. He reminded members that licensing was a statutory process and a search making any changes was a long process. He would love to have been in a position to license rickshaws but he could not afford to put the council in a position which was open to legal challenge. Therefore it was right to defer any decision until the government had put the necessary legislation in place.

He added that capacity of officers was limited and resources were lean. The work plan for the licensing team was scheduled in advance and resources committed accordingly and the rickshaw issue had come from left field. Being a new Cabinet Member had not caused any delays and in fact he had made himself very available for attending meetings on this matter. The pace of moving it forward had been very much governed by the need to gather and carefully consider all the available information.

If the Cabinet had made a decision to adopt the policy could there have been a risk to the council, the public or the operator that the government could then change the legislation regarding safety standards. Could the decision be considered to be proportional based on this risk?

The Cabinet Member advised that after receiving the second report on this issue, Cabinet had decided that the existing policy could become unworkable if there was

an attempt to change it to reduce the safety risks associated with rickshaws so in that sense the decision was proportional to the risk.

Paragraph 1.3 of the Cabinet report of the 11 December, appeared to suggest that in September the Cabinet had been ready to instruct officers to produce a draft policy. If the consultation had not thrown up a few safety issues would the Cabinet have proceeded to adopt a policy?

The Cabinet Member advised that he was not in a position to answer this hypothetical question.

Had the Cabinet Member experienced rickshaw travel as part of his research? Member commented that he had travelled in a rickshaw recently in India and felt perfectly safe despite the crowded traffic conditions?

The Cabinet Member said he had not travelled in a rickshaw.

Louis Krog , the Business Support and Licensing Team Leader

The chair invited Louis Krog to respond to questions notified by the committee and any additional ones members wish to ask.

The officer wished to clarify a few points at the start. Firstly the Hackney Carriage licensing legislation that applied in London was different to that applied in Cheltenham and other towns outside London. He explained that if there was a desire to operate licensed rickshaws in Cheltenham then the council must first formulate a policy for dealing with applications for licences. This contrasted with operating non-motorised rickshaws on a private hire basis where the council would have no control under the current legislation.

What professional advice did you give to Cabinet Members regarding the operation of rickshaws within other boroughs?

Initially he had referred members to the experiences in London and Edinburgh and subsequently further research in a lot of other towns. This initial desktop exercise had made it very clear to officers that there was no uniform approach to the operation of rickshaws. It was a complicated area to deal with but they had looked at the existing policy and procedures regarding Hackney Carriage licensing and incorporated some changes which had resulted in the draft policy presented to Cabinet.

Did you refer the Cabinet to Hereford Council who appear to have been operating licensed rickshaws since 2006.

Officers did not ignore the experiences of Hereford regarding safety. Regarding the licensing of rickshaws, it would not have been a helpful comparison since the operation in Hereford consisted of rickshaws that made no charge and had no fixed route.

What advice did you give regarding safety?

He had provided some advice in the June report to Cabinet on safety standards. During the consultation, it became apparent that a lot of the feedback was concerned with safety issues and therefore the focus for the December Cabinet report was on safety matters.

The report from the TRL had provided further information on safety issues. The report had suggested that the basic safety of rickshaws could not be enhanced, for example it was not possible to fit guards. The report concluded that rickshaws were reasonably safe if operated in a reasonable way and regularly inspected.

Do you have any firm dates for when the decision on the “outcome of the taxi and private hire licensing law reform review by the Law Commission” - will actually be published? Is it likely to be 2013 or 2014 or even later?

In response he said that government were very aware of the need to update the ancient legislation in order to deal effectively with rickshaws. The Law Commission had indicated that they were fairly confident that the legislation would be in place by late 2014 or early 2015.

Why was Cheltenham not leading the way on this issue and what was plan B. if the legislation was further delayed?

That was not for officers to decide.

In June 2012 Cabinet approved for the purpose of consultation a draft policy in respect of the licensing of rickshaws in the borough. Were you happy with the safety requirements set out in that draft policy? In your professional capacity was it the best policy you could recommend which brought together best practice and would it have been workable?

The safety standards set out in the draft policy were fairly standard and based on those for two or three wheeled bicycles. In the absence of anything more specific for rickshaws this was the approach that most councils had adopted. The function of the policy was to provide a method for determining whether a subsequent application was lawful. The policy would stipulate what type of vehicle the council was prepared to licence. The current adopted policy for Hackney Carriages excludes rickshaws and therefore they could not be licensed under that policy.

He confirmed that in the absence of a policy the only option for rickshaw operators was to run them unlicensed. The council could not impose any requirements on unlicensed operators and would not be in a position to check whether they were adequately insured.

He advised members that a Court of Appeal had ruled that rickshaws could only be licensed as a Hackney carriage in so far as them standing or plying for public hire and anybody operating in such a way without a hackney carriage licence would be committing an offence?.

In the December Cabinet report were you recommending to Cabinet that they license rickshaws and adopt the draft policy?

It was for Cabinet to decide whether they wished to approve the licensing of rickshaws. If they chose to do so then officers were recommending the safety standards in the draft policy be adopted by Council.

Are other councils wrong to license rickshaws and are we in the Cheltenham making too big an issue of it?

In his professional opinion the current legislation was not able to deal effectively with rickshaws and all councils were struggling with this. The government had recognized the increasing numbers of rickshaws and therefore the need to make the legislation workable to accommodate this increase in numbers. The current law forces councils to make the existing legislation work in order to protect the public and support the operators. Some councils have chosen to operate under the existing legislation and some have opted to wait until new legislation is put in place.

Could we license rickshaws under street trading legislation?

In theory this would be possible, but the problem with the street trading licensing policy was that it did not promote safety issues and therefore would offer inadequate protection to the public. It was not intended for that purpose and would stretch the street trading legislation too far. Following the Court of Appeal ruling that rickshaws should be licensed as Hackney Carriages, he had not included this as an option for Cabinet to consider.

What negotiations did you have with the applicant to look at how rickshaws might operate in Cheltenham and therefore how best to move the issue forward? Did you consider a fixed route for rickshaws in Cheltenham as was operating in Hereford?

Officers had an initial conversation with the applicant in March and following that there were ongoing discussions and many e-mails were exchanged. He acknowledged that relationships with Mr Meyer had gone sour and the issue had been the subject of complaints which have been dealt with under the council's complaint procedure. Recently there had been a meeting with the Cabinet Member, the applicant and the licensing officer's line manager.

The initial draft policy did propose an area for the ranking up of rickshaws which could also be used for spot checks but this was not well received by the potential operators and therefore had not been included in the subsequent policy presented to Cabinet.

When questioned, the officer said he had sympathy for the applicant regarding the delays but he assured members that there was no undue delay by officers in dealing with the application. Asked whether he advised the applicant in March that there was no chance of his licence being approved in time for the summer season, the officer said he did advise Mr Meyer in an e-mail that it was unlikely that it would be completed within three months.

Is it true that the responses to the consultation regarding safety mostly came from taxi drivers and no major safety issues were raised by the police or the Road Safety Unit at the County Council?

There had been about 10 to 12 respondents to the consultation who had raised issues of safety. The response from the police was to refer to the experiences of rickshaws operating in Westminster. There had also been a comprehensive response from rickshaw operators which had been taken into account and a number of changes were made to the draft policy as a result of their comments.

The call-in request suggests that one of the grounds for call-in was that the decision should only have been taken following taking the professional advice of officers. Did you give clear advice to the Cabinet member and was it your

advice that councils should adopt a policy? Did you have a personal opinion?

The officer advised that he kept the Cabinet Member aware of developments at the time and he had had many discussions with Councillor Jeffries who had regularly come into the office to discuss the matter. Members needed to bear in mind that it was necessary to follow due process and it could be a lengthy procedure to get a report signed off. The officer referred to the recommendations in the report to Cabinet on 11 December 2012. He had given clear advice to Cabinet on the draft policy but it was for Cabinet to agree the principle of licensing rickshaws first. His role as an officer was to give professional advice and not a personal opinion?

Hereford Licensing Manager

The licensing manager from Hereford had been unable to attend the meeting tonight due to unfavourable weather conditions. She had submitted a written response to all the questions and members had the opportunity to read this during an earlier brief adjournment. Members agreed that it was a very good report and answered all their questions and wished to pass on their thanks to the officer concerned.

The applicant Mr James Meyer

The chair invited Mr James Meyer to address the committee regarding his experiences.

Mr Meyer informed the committee that this was his first experience of local government and he had found it a demotivating and upsetting experience. His reason for submitting an application for rickshaws was that he felt it would be a good thing for Cheltenham. He did not see it as a serious moneymaking exercise, he simply wanted to cover his costs. He had experienced a great deal of obstructiveness, albeit that this may not have been intentional, and he was appalled that it had taken 10 months to reach a stage where the decision had been taken to defer the decision. In practical terms he considered his application had been turned down and it was misleading and frankly dishonest to say it had been deferred. Officers had advised that the Law Commission would be reporting in 2013/2014 but in his experience this was much more likely to be 2017/18.

He referred several times to the 10 month delay and he did not consider that the Cabinet Member or the licensing officer had justified this delay in their earlier responses to the committee.

Regarding his relationship with the licensing officer, he acknowledged that the officer had been very thorough and there had been numerous attempts for them to work together. He considered that any help that he tried to give to the licensing officer was put down and dismissed and he was given the impression that it was rather improper for the licensing officer to be talking to the applicant for any length of time. This had created an adversarial relationship.

The reason given for the deferral was that the Hackney Carriage licencing policy was inappropriate for rickshaws. He acknowledged it may not be ideal but other local authorities have managed to use it successfully and Hereford was a good example. There was an important difference between theoretical concerns and practical application. Westminster's experience demonstrated this with only eight minor accidents reported and no passengers injured. He understood there were theoretical safety concerns about rickshaws and the vehicles could be seen as flimsy but in practice it had proved a safe experience. He considered the safety concerns raised

by the Cabinet Member were just a smokescreen for the delay and despite all the meetings there was no evidence which set out what and when particular safety concerns had been discussed and the outcome of those discussions.

When first making his application, he had allocated 4 months and thought this was not an unreasonable estimate. There was a lead time of three months for rickshaw supply and at that time he had been given every indication that it would be possible to secure a licence in that sort of time frame. He had now missed one summer season and with the further delay he would now miss the following season. His requirement was that he would be in a position to launch a licensed rickshaw operation by April/May this year and he considered it would be a safe service if sensibly licensed. At the time of its initial application he had one rickshaw and he had now purchased an additional three.

A member commented that he had not been comfortable with some of the language Mr Meyer had used and he had focused unduly on the delay in his response to committee. He asked Mr Meyer whether he was open to considering any restrictions? Mr Meyer responded that yes he was open to this and had wanted all along to discuss the matter with officers and find a way round any problems. He felt he had been kept at arm's length and this was inappropriate.

Another member asked Mr Meyer whether everyone agreed with him that rickshaws would be good Cheltenham. In response he said there were fairly few people who had not rather liked the idea and overall 90% were positive and many thought it would be fun.

The chair invited the Cabinet Member to respond to the evidence he had heard.

The Cabinet Member wished to emphasise that there had been lots of meetings and correspondence with Mr Meyer. In his personal dealings with the applicant, he had found him to be obstructive and unwilling to listen but there had been lots of opportunities for discussion.

The chair referred members to paragraph 14.13 in the council's Constitution which set out their options for dealing with the call-in now that they had considered all the facts and heard the evidence.

In the discussion that followed members questioned whether the decision not to adopt a policy should have been referred to Council in the same way that Council would have been requested to adopt the draft policy if it had been approved by Cabinet. They asked whether it would be possible for Council to demand that Cabinet formulate a policy on this issue for their approval.

The Chief Executive advised that the Cabinet decision was that they should not instigate a process for getting a policy drawn up and approved and this was not a decision that required Council approval. This was confirmed by a solicitor from One Legal who was present at the meeting. He advised that the function regulations set out in the council's Constitution determine what decisions can be taken by Cabinet and which by Council. In this case Council would approve a licencing policy recommended to it by Cabinet but there would be no requirement for a referral to Council if Cabinet decided to defer taking any decision. There would also be nothing to prevent a member raising a motion at Council on this matter.

After hearing the evidence, a member thought there were a number of issues which led him to conclude that a decision should be referred back to Cabinet. The delay

had happened and that could not be changed however he was of the opinion that had there been more opportunities to negotiate with the applicant a solution may have been found.

Councillor Sudbury wished it noted that she didn't feel the grounds for the call-in had been properly considered and these should be discussed by the committee before agreeing their next action. The chair noted her concerns but wished the committee to continue to consider its options set out in 14.13.

Members concluded that the matter should be referred back to Cabinet to have a look at their decision to defer. The committee were not recommending that the Cabinet should adopt the draft policy but they were recommending that they should revisit the decision to defer and possibly whether a 'yes' or 'no' answer to the applicant would be preferable. This appeared to fall under option 14.13 (c).

They agreed that this committee should forward a report to Cabinet in February if possible regarding this call-in and this would be drafted by the chair in consultation with the members of the committee. If Cabinet wish to then refer a policy to Council, this could be done in March and if a policy was agreed then the Licensing Committee would then be positioned to consider an application soon after.

Resolved that the matter would be referred back to Cabinet with a request that they review the decision to defer.

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Cabinet

**Tuesday, 11th December, 2012
6.00 - 7.25 pm**

Attendees	
Councillors:	Steve Jordan (Leader of the Council), John Rawson (Cabinet Member Finance), Rowena Hay (Cabinet Member Sport and Culture), Peter Jeffries (Cabinet Member Housing and Safety), Andrew McKinlay (Cabinet Member Built Environment), Jon Walklett (Cabinet Member Corporate Services) and Roger Whyborn (Cabinet Member Sustainability)
Also in attendance:	Councillor Penny Hall

Extract of the Minutes**1. LICENSING OF RICKSHAWS IN CHELTENHAM**

The Leader of the Council explained that he was using his discretion in inviting Mr Meyer of Rickshaw Revolution to address Cabinet. Mr Meyer believed that it had taken the Council a considerable amount of time to consider his application for operating licensed rickshaws in the town and had submitted a complaint to that effect. He recognised that safety concerns were of utmost importance and referred to the Gloucestershire Constabulary consultation document which had drawn attention to the City of Westminster report on the safety of rickshaws. He asked why the definitive City of Westminster report had not satisfied the council in granting a licence for operating rickshaws in Cheltenham.

In response the Cabinet Member Housing and Safety explained that the rickshaws operating in London were unlicensed. He explained that Cabinet had considered the issue in September but Members were still concerned that there were no safety standards for rickshaws or the manufacture of rickshaws. The Hackney Carriage legislation was not fit for purpose with regard to licensing rickshaws but as this was due to be revised in 2013/14 it was proposed that the decision be deferred until then.

Members were supportive of the amended resolution, highlighting continued safety concerns and the complexities in policy. They recognised the contribution a rickshaw service could have on tourism and wished to find a workable solution. When asked whether rickshaws could operate unlicensed in the town the Cabinet Member confirmed that this was possible on a private hire basis. Members advised Mr Meyer to discuss this possibility directly with the Licensing Officer.

RESOLVED

To defer a decision on the licensing of rickshaws in Cheltenham until the outcome of the taxi and private hire licensing law reform review by the Law Commission is published in 2013/14.

Cheltenham Borough Council

Cabinet

16 April 2013

Scrutiny task group – Sex trade in Cheltenham Report of the Overview and Scrutiny Committee

Accountable member	Councillor Duncan Smith, Chair of Overview and Scrutiny Committee
Accountable officer	Andrew North, Chief Executive
Ward(s) affected	All
Key/Significant Decision	No
Executive summary	<p>The issue of the sex trade in Cheltenham, particularly the illegal trade of sexually exploited young or otherwise vulnerable people, was first raised in a motion at Council on 25th June 2012 by Councillor Barbara Driver. Referring to recent exposés in both the national and international press that seem to highlight Cheltenham as a ‘hotspot’ of activity, the motion called on the Council to take action to address these issues. After a debate it was decided to request Overview and Scrutiny to investigate the matter further and report back to Council on their findings. A scrutiny task group was set up to investigate the matter and this report is the result of that review.</p> <p>The matter was considered by the Overview and Scrutiny Committee on the 18 February 2013 who were satisfied that the task group had met their terms of reference and resolved to forward the report to Council as requested by Council in June 2012. The recommendations in the O&S report were unanimously endorsed by Council on 22 February 2013 and forwarded to Cabinet for approval. .</p>
Recommendations	<p>The Cabinet is recommended to:</p> <ol style="list-style-type: none"> 1. Approve the following recommendations of the Scrutiny Task Group set out at 7.1 of the Scrutiny Task Group report : <ol style="list-style-type: none"> a) That Cheltenham Borough Council should work with the Police, Public Protection Bureau and voluntary organisations to identify emergency facilities where vulnerable people can be housed safely for a short period. This will allow for victims to receive appropriate emotional support from trained professionals whilst also allowing the Police a sufficient period of time to interview them and build a case for prosecution. b) That all Councillors should attend awareness sessions on safeguarding issues, particularly to learn about the warning signs that children, young people and vulnerable adults often exhibit if they are being abused or exploited. As community representatives with local knowledge and local intelligence, Councillors are in a

good position to contribute towards this agenda.

- c) That Cheltenham Borough Council assist the Police and Public Protection Bureau in producing, promoting and distributing information to those who may be at risk of sexual exploitation or already be victims of it, to let them know where they can go for help and assistance. The task group recognises the challenges involved in making this information accessible to those who are fearful of authority or many not speak English as a first language.
- d) That Cheltenham Borough Council support the work of the Public Protection Bureau in raising awareness of prostitution and potential sexual exploitation. One issue focuses around making hoteliers more aware of the potential for their premises to be used for prostitution and exploitation purposes, and in response the task group recommends that the council use its links to the Cheltenham Hoteliers Associate to raise awareness of this issue, particularly in relevant periods such as the run up to 'race week' .
- e) That a greater focus should be placed on producing high quality quantitative data on the scale and nuance of sexual exploitation in Cheltenham, and Gloucestershire as a whole. The task group recognises that the Police are already taking steps to address this issue, however as an intelligence-led area of policing, the importance of understanding the true scale of the issues we face so that we can work together with as partners to coordinate appropriate levels of response, cannot be underestimated.

- 2. Request the Chief Executive to forward the Scrutiny Task Group report to the Police and Crime Commissioner and Police and Crime Panel to make them aware that issues of human trafficking and sexual exploitation remain an area of concern and focus to Cheltenham Borough Council. This should be done once the report has been considered by Cabinet so that their proposed response can also be included.

Financial implications

There are no financial implications at this stage although if suitable accommodation were to be identified within the Housing Revenue Account, the responsibility for their financial support would need to be clarified as this would not necessarily be within the remit of the Council's budget.

Contact officer: Paul Jones, GOSS Head of Finance,

paul.jones@cheltenham.gov.uk, 01242 775154

Legal implications	<p>There are no legal implications arising out of the recommendations of the scrutiny task group recommendations or the content of this report</p> <p>Contact officer: sarah.farooqi@teWKesbury.gov.uk, 01684 272693</p>
HR implications (including learning and organisational development)	<p>All members were encouraged to attend the planned awareness session delivered by the Gloucestershire Safeguarding Forum in February. Officers whose job role brings them into contact with children and vulnerable adults attend a specific half day session delivered by a trainer authorised by the Gloucestershire Safeguarding Board.</p> <p>Should an officer or member identify an issue they may require support from the council's counselling service</p> <p>General safeguarding awareness for all other employees is addressed using an e-learning module in the Learning Gateway.</p> <p>Contact officer: Jan Bridges , jan.bridges@cheltenham.gov.uk, 01242 775189</p>
Key risks	No risks have been identified.
Corporate and community plan Implications	The work of the Scrutiny Task Group and the six recommendations set out in the attached report will support the council deliver its corporate outcome "Communities feel safe and are safe"
Environmental and climate change implications	

1. Background

1.1 As set out in the report.

2. Reasons for recommendations

2.1 As set out in the report.

3. Alternative options considered

3.1 As set out in the report.

4. Consultation and feedback

4.1 Once the task group had completed their draft report it was circulated to all participants in the review for comment on 16 January 2013 and all comments were taken on Board.

4.2 Relevant officers in the council including Finance, Legal, CBH, HR, Public Protection and the Strategy and Engagement Team were all sent a copy of the report for comment. Their comments were incorporated in the implications section of this report.

4.3 The Cabinet Member Housing and Safety also received a copy of the draft report at the same time and was invited to make any comments before it was considered by Overview and Scrutiny Committee on 18 February 2013.

4.4 The task group report was considered by Council on 22 February and was happy to unanimously

endorse the recommendations in the report without any debate.

5. Performance management –monitoring and review

5.1 Overview and Scrutiny committee will schedule a date to follow up the implementation of the recommendations.

Report author	Contact officer: Rosalind Reeves, Democratic Services Manager, Rosalind.reeves@cheltenham.gov.uk, 01242 774937
Appendices	1. Task Group report (including its appendices)
Background information	1. Council 25 June 2012 and 22 February 2013



SCRUTINY TASK GROUP REPORT

SEX TRADE IN CHELTENHAM

JANUARY 2013

1. INTRODUCTION

- 1.1 The issue of the sex trade in Cheltenham, particularly the illegal trade of sexually exploited young or otherwise vulnerable people, was first raised in a motion at Council on 25th June 2012 by Councillor Barbara Driver. Referring to recent exposés in both the national and international press that seem to highlight Cheltenham as a 'hotspot' of activity, the motion called on the Council to take action to address these issues. After a good debate it was decided to request Overview and Scrutiny to investigate the matter further and report back to Council on their findings. Members were invited to join a scrutiny task group to look at this issue, the terms of reference for which are laid out in full at 2.2. The group was tasked with working with partners to determine if trafficking and sexual exploitation of the vulnerable is a problem on the scale suggested by these news reports, and if so recommend actions that the Council could take to assist in the prevention of these crimes, the protection of their victims and the prosecution of their perpetrators.
- 1.2 This report sets out the findings and recommendations arising from the scrutiny review by the scrutiny task group.

2. MEMBERSHIP AND TERMS OF REFERENCE

2.1 Membership of the task group:

- Councillor Barbara Driver (Chair)
- Councillor Andrew Chard
- Councillor Paul Massey
- Councillor Anne Regan
- Councillor Diggory Seacome

2.2 Terms of Reference agreed by the Overview and Scrutiny Committee

- Gain an understanding of the work currently being done by partnerships and the police to address this issue and to establish the extent of the issue in Cheltenham
- Examine how CBC contributes to this work and review whether this is the most effective way that CBC can assist in tackling the issue.
- Examine whether there is anything that needs to be done within Licensing regime to combat this issue
- Examine whether there is anything that needs to be done in respect of the night time economy to combat the sex trade
- Establish a council strategy to identify current working and responsibilities and to guide the council in it's future role in working with partners to address this issue

3. METHOD OF APPROACH

3.1 The task group met on 4 occasions to gather evidence on current practices and the potential need for further action on trafficking for sexual exploitation from the following:

- Detective Chief Inspector Richard Cooper – Deputy Head of Public Protection Bureau
- Detective Inspector Sue Bradshaw : Public Protection Bureau
- Ian Godfrey – Children in Care Service Manager (U16) : Gloucestershire County Council
- Lynne Speak – Operations Manager for Youth Support Services (16+) : Gloucestershire County Council
- Amanda Wilsdon : Gloucestershire Domestic Violence Support and Advocacy Project (GDVSAP)
- Chris Brierley - reporter : BBC Radio Gloucestershire

3.2 We were supported in the review by the following officers:

- Andrew North – Chief Executive : Sponsor for the task group
- Rosalind Reeves – Democratic Services Manager : Facilitator for the task group
- Sidgorée Nelson – Gloucester County Council : Additional support to the task group

3.3 The task group reviewed a variety of evidence including:

- Gloucestershire Constabulary's approach to policing trafficking and sexual exploitation in Gloucestershire and their professional opinion on the scale of these problems in Cheltenham and Gloucestershire as a whole.
- The Public Protection Bureau's multi-agency approach to dealing with prostitution, child protection and trafficking and any special measures they put in place during the Cheltenham Festival race week regarding the licensed and unlicensed sex trade.
- Information on the County Council's Children in Care Service for those under 16 including professional opinion on the scale of trafficking and child sexual exploitation issues in Cheltenham and Gloucestershire.
- Information on the County Council's targeted Youth Support Service for those over 16 and the professional view on the scale of the trafficking and child sexual exploitation problems in Cheltenham and Gloucestershire as a whole.
- A presentation on People Trafficking and Child Sexual Exploitation and supporting question and answer session delivered by GDVSAP that provided information on the national context of trafficking and child sexual exploitation as well as local activities around this issue.
- Excerpts from reports on the sex trade and trafficking for sexual exploitation broadcast on BBC Radio Gloucestershire in 2009. They included interviews with a working girl in Gloucestershire, a punter, and importantly, a victim of trafficking.
- The Dispatches programme '*The Hunt for Britain's Sex Traffickers*' originally broadcast in 2010 that first raised the issue of trafficking for sexual exploitation within Cheltenham.

4.4 Members would like to thank all those, including partner agencies that contributed towards the success of the task group by providing evidence on their activities and suggesting constructive ways to continue addressing issues of trafficking and sexual exploitation in Cheltenham. Members would also like to thank the officers who attended meetings and contributed to the review.

4. OUR FINDINGS

4.1 **What do we mean by trafficking and sexual exploitation?**

4.1.1 This is defined “as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.” – Protocol to Prevent, Suppress and Punish Trafficking in Persons, United Nations

4.1.2 Sexual exploitation is just one type of trafficking, however the Home Affairs Select Committee believes that 98% of those trafficked into the United Kingdom are trafficked for sexual purposes.

4.2 What did Gloucestershire Police and Public Protection Bureau tell us?

4.2.1 Cheltenham does not have a dedicated team in the form of a vice squad. Strategically, the multi-agency Public Protection Bureau takes the lead on prostitution, child protection and trafficking, but that day-to-day policing of prostitution is conducted by local officers with local knowledge operating locally.

4.2.2 There is no red light district in Cheltenham and most prostitution in the town was said to happen in residential buildings within 1 mile of the town centre. The police response depends on the level of harm each incident is judged to cause, with evidence of drugs, anti-social behaviour, coercion and violence classed as high in harm. Responses are commonly tactics of disruption that vary in strength and pro-activeness depending on the level of harm. Within the last 2 years there had been 11 search warrants executed in relation to suspected brothels.

4.2.3 The starting point for the police is to treat prostitutes as potential victims of exploitation. Only rarely are trafficked or exploited women discovered in Cheltenham, and national and regional comparisons with similar towns appear to show that there is no significant problem to be concerned by. This does not correspond to the media perception of the town, but the police suggested this to be a consequence of the intelligence of prostitution in Cheltenham being good and leading to some highly visible operations.

4.2.4 The police informed the task group that while there is undoubtedly participation by vulnerable young people in the unlicensed sex trade, that this is not a highly visible issue and that evidence suggests it is not a high level of participation.

4.2.5 The police estimated that less than a low percentage of women participating in the trade in Cheltenham are doing so unwillingly due to violent coercion, but that a higher percentage would at one time have been coerced into the trade before reaching Cheltenham.

4.2.6 The police told us that they had seen no evidence of a link between the licensed and unlicensed sex trade.

4.2.7 The Gloucestershire Public Protection Bureau reinforced the message of good intelligence leading to proactive, highly visible policing. They felt that good support for women wanting to move away from the sex trade was also important as typically this could take up to 7 years.

4.2.8 The task group were keen to find out if seasonal events such as ‘race week’ leads to vulnerable young people being targeted for sex. They were informed that the evidence suggests that generally only willing prostitutes move into the area to meet increased demand and that this is not an organised activity. The police would rely on intelligence from other forces to alert them to any organised gangs moving into the town for the event.

4.2.9 The response to ‘race week’ was described as being a mixture of raising awareness, coupled with increased officer presence on the racecourse and checks on licensed premises. .

4.3 Overall what we have learned through the evidence gathering process

4.3.1 The main thrust of evidence heard suggests that to the best of our knowledge, Cheltenham faces no more prevalent a problem of trafficking and sexual exploitation of the vulnerable than any other similar town. This evidence was welcomed by the task group, however it should be noted that all partners working to combat these crimes recognise that our collective knowledge of the scale and extent of these issues in Cheltenham, and indeed the County, is imperfect. An intelligence-led area of policing and of social care intervention, this is due to a variety of factors including victims being reluctant or unable to come forward, and as such there is very much a shared feeling that

the stone remains unturned when it comes to identifying the true extent of these issues.

- 4.3.2** We understand that there is still more to learn as we turn the stone over. But what is already clearly understood by the task group and partners is the sheer horror of these crimes, the devastating effects they can have on victims, and the absolute need to continue to recognise them as organisational priorities and act accordingly. Child sexual exploitation is a particularly heinous example, and one that the task group recognises is receiving the attention it deserves.

4.4 Who does what?

For a full run-down of all the agencies involved in the fight against trafficking and sexual exploitation, and what they are responsible for, please see appendix 2. What we would like to highlight here, is how impressed we have been by the level of work and commitment between partners across the County to address these problems. This is typified by the 2009 creation of the multi-agency Public Protection Bureau in 2009 to lead strategically on issues of prostitution, child protection and trafficking, and demonstrated by new protocols and procedures being put in place to make sure that the early signs of child sexual exploitation are detected.

4.5 Issues with current practices

Helping victims and prosecuting criminals

- 4.5.1** Crimes of trafficking and sexual exploitation are difficult to prosecute. The message from the Police and the Public Protection Bureau is that victims are often understandably too traumatised, distrustful of authority, or scared of their abusers to help build a solid case to present to the Crown Prosecution Service before their limited time in protective custody ends.
- 4.5.2** This message was supported by evidence from GDVSAP, who expressed frustration at the small window of time in which they have to offer emotional support to victims of trafficking or sexual exploitation. The group learned about the National Referral Mechanism and that good practice dictates that adult victims of trafficking need to be moved out of Cheltenham almost immediately after they request help, to keep them safe from their traffickers. They felt it would be good if there was somewhere for the victims of trafficking to stay for a couple of days in Cheltenham.
- 4.5.3** That being the case, all three organisations brought up the idea of some kind of emergency accommodation resource, recognised safe, that would allow the police time to gather the evidence they need for prosecution in a non-threatening environment, and allow the voluntary sector to support victims more effectively. This was an idea the task group was happy to explore further.
- 4.5.4** Officers approached Cheltenham Borough Homes on our behalf. They were supportive of the proposal but felt that there needed to be a clearer assessment of the need before this could be considered in any detail. They suggested that the option of using existing refuges in Gloucestershire should be explored.

Raising awareness of the warning signs of exploitation

- 4.5.5** The importance of raising awareness of sexual exploitation was mentioned by each organisation and individual that gave evidence to the task group. Sexual exploitation along with other sexual offences have a history of being under-reported, and as we heard, this is often because victims cannot or will not report abuse themselves.
- 4.5.6** Whatever the reason: be it lack of English; fear of the Police; fear of their exploiter; fear of the consequences for their family; or even emotional attachment to their exploiter, this makes it all the more important that professionals that might come into contact with victims, and ordinary members of the public be aware of what sexual exploitation is and what the signs of it may be. It is important to note that children and young people often do not even realise that they are being abused.
- 4.5.7** The importance of this kind of awareness-raising is particularly striking when it comes to child sexual exploitation. The task group was pleased to hear about the overwhelmingly positive youth response to educational efforts such as the play 'Chelsea's Choice', designed to raise awareness

of child sexual exploitation amongst young people in years 8 & 9 in Gloucestershire's schools. However, it also heard evidence from both the County Council's Children in Care Services and Youth Support Services about the vulnerability of the young to exploitation.

- 4.5.8** It was stressed that children in care and those otherwise in contact with social services are not safe from exploitation, and that sometimes social workers become concerned by the adults in the lives of young people once they have established relationships with them. Similarly, in talking about the Youth Support Service on offer to children and young people in the County, it was recognised that as a service targeted at the most vulnerable, it often comes into contact with vulnerable children at potential risk of abuse.
- 4.5.9** The social workers and youth workers of these services are then in a good position to spot the signs of exploitation and take action; but only if they are equipped with the tools to do so. Responding to this need, the task group was pleased to hear that all social workers and youth workers are being trained to spot exploitation through use of a new multi-agency screening tool as part of the GSCB's new responsibility to provide training on safeguarding and welfare.
- 4.5.10** It agrees with these professionals that more needs to be done to raise awareness of sexual exploitation and its warning signs amongst those who work with children and young people in non-social care and youth work settings, and ordinary members of the public. The task group is happy to assist with this as it can.

4.6 The extent of the problem

- 4.6.1** This review was kick-started by reports in the press that painted a picture of Cheltenham as a 'hotspot' for trafficking and sexual exploitation. The task group is pleased to note that what evidence we have available seems not to support this suggestion.
- 4.6.2** In their session before the group, both the Police and Public Protection Bureau challenged this view, stating that rarely are trafficked or exploited people discovered in Cheltenham. They estimate that a low percentage of participants in the sex trade in Cheltenham are unwillingly, and in comparing Cheltenham with similar national and regional towns, it was suggested that the media perception of Cheltenham was perhaps a consequence of the Constabulary having launched several highly visible operations in the last few years.
- 4.6.3** We support the Police's decision to be open and public when taking actions such as Operation Pentameter, Pentameter 2 and ad hoc raids to address exploitation, as they demonstrate to the public and potential criminals that where exploitation is suspected it will be acted upon. However we recognise that such public action can increase the public perception of the town as a 'hotspot' of exploitation and it is important to balance raising awareness with unnecessarily damaging the reputation of the town.

4.7 Gaps in our knowledge and the drive to improve

- 4.7.1** Despite this evidence, over the course of this review, the difficulty in establishing a truly robust understanding of the extent of trafficking and sexual exploitation in Cheltenham has been made clear. However, given what we do know locally; international research which seems to suggest that trafficking is the second largest illegal trade in the world and the fastest growing international crime; and the apparent national increase in child exploitation, it is important those organisations (including CBC) with a statutory duty of care towards the vulnerable remain vigilant and continue to enhance our toolkits and be aware of good practice on these issues.
- 4.7.2** We know that as there will always be users of exploitative sexual services willing to overlook the damage their desires are doing to victims; there will always be perpetrators of trafficking and sexual exploitation willing to prey on the vulnerable in order to satisfy that demand. Considering the vast sums of money that can be earned from a single victim, estimated at between £26-52,000 per annum by the Home Affairs Select Committee, this is unsurprising.
- 4.7.3** As we know the market exists and is not going away, and as we know that there is crime going on that we do not know about, the task group believes that the only way to prevent, protect and prosecute is by increasing our efforts at actively searching out these crimes. Several pieces of work are now ongoing to increase our intelligence, for example the scoping analysis of child

sexual exploitation in Gloucestershire currently being undertaken by the Police on behalf of the Gloucestershire Safeguarding Children's Board (GSCB). More still needs to be done.

5. OUTCOMES REGARDING TERMS OF REFERENCE SET FOR THE REVIEW

- 5.1** When the O&S committee receives our report, we understand that part of their role is to review whether the task group has achieved the original objectives set by that committee. Therefore we feel it is important to set out what we have achieved regarding each of those objectives.
- 5.2** **Gain an understanding of the work currently being done by partnerships and the police to address this issue and to establish the extent of the issue in Cheltenham**
- 5.3** This was the initial focus of the review as the task group wished to establish at an early stage whether there was a real problem in Cheltenham with sexual exploitation or whether it was simply a matter of perception. Either way it was important for the task group to review the evidence and form an opinion. If there was a problem, then the task group could then go on to consider how it could be tackled and if it was purely a problem of perception then through documenting their findings the task group hoped to give reassurance to the public that Cheltenham was a safe place to live or visit. Broadly speaking the task group established that it was not a significant issue in the town but there was no room for complacency.
- 5.4** **Examine how CBC contributes to this work and review whether this is the most effective way that CBC can assist in tackling the issue.**
- 5.5** At the start of this review, officers from Public Protection were keen to stress to the task group, the limited powers that they had to act on this issue as it was very much police and county led.
- 5.6** The most effective way that CBC can contribute to tackling this issue is by working in partnership with other agencies. The task group noted the council worked in partnership on safeguarding issues and can play a key role in promotion and raising awareness. This will include working with voluntary agencies such as CCP who care for homeless young people.
- 5.7** **Examine whether there is anything that needs to be done within Licensing regime to combat this issue**
- 5.8** CBC as a licensing authority have the power to grant licences for sex establishments such as sex shops, sex cinemas and sexual entertainment venues (such as lap dancing, strip tease and pole dancing clubs). In 2010, the Council adopted special legislation to specifically regulate sexual entertainment venues that, in the past, have been able to rely on temporary licences to host sexual entertainment. As a result of the adoption of the new legislation, premises could no longer rely on temporary licences. Furthermore, whereas before sexual entertainment could be held for up to four days using a temporary licence, the new legislation narrowed that period down to one 24 hour period per month. Any premises wishing to offer sexual entertainment for a period exceeding the 24 which were not licensed. This would be a matter for the police.
- 5.9** The focus for CBC licensing officers is in visiting premises where sexual entertainment is held to ensure it is conducted in an appropriate manner or, where the premises is licensed, to ensuring conditions of the licences are being met. In this they work in partnership with the police and are particularly visible during race week and establishments have been closed down if they break the terms of their license. In this role, the council follows statutory and local procedures. The police also told the working group that they had seen no evidence of a link between the licensed and unlicensed sex trade. Sue Bradshaw from the Gloucestershire Public Protection Bureau commented that there was a good working relationship with the council in carrying out stringent checks on any licensing applications regarding the sex establishments.
- 5.10** CBC have no powers to visit brothels or unlicensed establishments where there might be concerns regarding sexual exploitation as the council had no right of entry to domestic premises which were not licensed. This would be a matter for the police.

- 5.11** On that basis the task group did not feel there was anything more that could be done within the Licensing regime. However they would request that licensing officers along with other relevant officers should be on the look out for signs of unlicensed activity and report any suspicions to the police.
- 5.12 Examine whether there is anything that needs to be done in respect of the night time economy to combat the sex trade**
- 5.13** The task group recognized that the sex trade is part of the night-time economy and it may be fuelled by drugs and alcohol. However the scope of this review was not to deal with prostitution per se but sexual exploitation. Whilst acknowledging that alcohol and drugs supplied as part of the night-time economy may be a contributory factor to people seeking prostitutes, we saw no evidence that the night-time economy has any close links with sexual exploitation in private establishments.
- 5.14** For this reason the task group did not identify any specific actions in respect of the night-time economy although it may provide potential outlets for promoting awareness and information.
- 5.15 Establish a council strategy to identify current working and responsibilities and to guide the council in it's future role in working with partners to address this issue**
- 5.16** As mentioned previously, combating sexual exploitation is not a primary role for the council and therefore the task group does not think it necessary to establish a council strategy. However working in partnership to address the issue is very important and we would expect the council to be clear of its role and responsibilities and contribute to the overall action plan of all the partnerships it is involved in.
- 5.17** In summary we feel that all the objectives set have been addressed during the course of the review.

6. CONSULTATION AND FEEDBACK

- 6.1** In undertaking its assessment of current practices and drawing up recommendations for future actions, the task group consulted widely with partners and other organisations working in the areas of trafficking and sexual exploitation. (Consultees are listed in full in **3.1**).
- 6.2** We involved the Cabinet Member Housing and Safety and he attended one of our meetings. We are pleased to see that he recognises the importance of this issue and has already worked with officers and the Gloucestershire Safeguarding Forum to set up a safeguarding seminar for members on 4 February 2013. This supports our second recommendation and we would encourage all members to attend.
- 6.3** Its findings and recommendations will be presented to the next convenient meeting of the Overview and Scrutiny Committee and then go on to Council for further consideration.
- 6.4** Members have already verbally fed back to all those who contributed towards the success of the task group, however all will be sent a copy of the report and invited to the meeting of the Overview and Scrutiny Committee at which this report will be considered.

7. RECOMMENDATIONS

- 7.1** Taking all these findings into consideration, the task group would like to make some recommendations to Council. We recommend:
- i. That the council should work with the Police, Public Protection Bureau and voluntary organisations to identify emergency facilities where vulnerable people can be housed safely for a short period. This will allow for victims to receive appropriate emotional support from trained professionals whilst also allowing the Police a sufficient period of time to interview them and build a case for prosecution.

- ii. That all Councillors should attend awareness sessions on safeguarding issues, particularly to learn about the warning signs that children, young people and vulnerable adults often exhibit if they are being abused or exploited. As community representatives with local knowledge and local intelligence, Councillors are in a good position to contribute towards this agenda.
- iii. That the council assist the Police and Public Protection Bureau in producing, promoting and distributing information to those who may be at risk of sexual exploitation or already be victims of it, to let them know where they can go for help and assistance. The task group recognises the challenges involved in making this information accessible to those who are fearful of authority or many not speak English as a first language.
- iv. That the council support the work of the Public Protection Bureau in raising awareness of prostitution and potential sexual exploitation. One issue focuses around making hoteliers more aware of the potential for their premises to be used for prostitution and exploitation purposes, and in response the task group recommends that the council use its links to the Cheltenham Hoteliers Associate to raise awareness of this issue, particularly in relevant periods such as the run up to 'race week' .
- v. That a greater focus should be placed on producing high quality quantitative data on the scale and nuance of sexual exploitation in Cheltenham, and Gloucestershire as a whole. The task group recognises that the Police are already taking steps to address this issue, however as an intelligence-led area of policing, the importance of understanding the true scale of the issues we face so that we can work together with as partners to coordinate appropriate levels of response, cannot be underestimated.
- vi. That Gloucestershire's new Police and Crime Commissioner and new Police and Crime Panel are sent a copy of this review and its recommendation to make them aware that issues of human trafficking and sexual exploitation remain an area of concern and focus to Cheltenham Borough Council.

8. TAKING FORWARD THE RECOMMENDATIONS FROM SCRUTINY

- 8.1** In taking forward these recommendations, it is important to recognise that issues relating to human trafficking and sexual exploitation cannot be addressed by Cheltenham Borough Council alone. These are multi-agency issues that require partners to work together to achieve the best outcomes for the people of Cheltenham. As such, the Borough Council will be looking to partners to take forward these recommendations where appropriate.
- 8.2** 7.1 i: the possibility of using vacant Cheltenham Borough Homes properties for this purpose has already been investigated. The initial response has been positive, and we learned that there are already properties for victims of domestic violence that could be made more widely available for this purpose. However more work needs to be done around establishing the true numerical need for such a resource, and also to investigate potential funding sources. The task group believes that in order for the council to progress this request further, the Police and Public Protection Bureau need to provide this information but we feel the council can take a lead on facilitating these discussions..
- 8.3** 7.1 ii: the new multi-agency 'working together protocol' developed for use in Gloucestershire to help all social and youth workers learn the signs of abuse and exploitation could be a possible source of training material for any awareness raising training for our councillors. However, the task group recognises that officers are in the best position to determine how such training is delivered.
- 8.4** 7.1 iii: the importance of preventative and protective actions to combat trafficking and sexual exploitation is seen in both the national and local contexts. As such, the task group would like to see swift action on this recommendation.

- 8.5** 7.1 iv: the task group recognises that officers are in the best position to determine how a communication such as this on behalf of the Council be worded. The group does note however, that the Cheltenham Festival is coming up fast.
- 8.6** 7.1 vi: this is straightforward and should be actioned without delay following Council.
- 8.7** The task group expects to report its findings and recommendations to the next appropriate meeting of the Overview and Scrutiny Committee before taking the report to Council for debate. Assuming that our recommendations are accepted by Cabinet, the task group asks to be kept informed of any developments, and also believes that a review of the implementation of the recommendations should be conducted six months after being accepted by Cabinet.

Report author	<p>Contact officer: Rosalind Reeves, Democratic Services Manager Rosalind.reeves@cheltenham.gov.uk, 01242 77 4937</p> <p>Sidgorée Nelson: Democratic Services, Gloucestershire County Council</p>
Appendices	<ol style="list-style-type: none"> 1. Terms of Reference agreed by O&S committee 2. Organisational roles of responsibilities regarding sex trafficking and safeguarding children and vulnerable adults
Background information	<p>Minutes of the Council meeting on 25 June 2012</p>

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SCRUTINY REVIEW – ONE PAGE STRATEGY

FOR COMPLETION BY THE OVERVIEW AND SCRUTINY COMMITTEE	
Broad topic area	Sex Trade in Cheltenham
Specific topic area	Sex trade and exploitation of young women and vulnerable people arising from people smuggling and the sex trade in Cheltenham.
Ambitions for the review	<ul style="list-style-type: none"> • Gain an understanding of the work currently being done by partnerships and the police to address this issue and to establish the extent of the issue in Cheltenham • Examine how CBC contributes to this work and review whether this is the most effective way that CBC can assist in tackling the issue. • Examine whether there is anything that needs to be done within Licensing regime to combat this issue • Examine whether there is anything that needs to be done in respect of the night time economy to combat the sex trade • Establish a council strategy to identify current working and responsibilities and to guide the council in it's future role in working with partners to address this issue (not extensive could be a 2 page summary)
Outcomes	A safer environment in Cheltenham
How long should the review take?	Report to Council in December
Recommendations to reported to:	Council via O&S committee
Membership:	Councillors Chard, Driver, Seacome, Regan and Massey
Sponsoring officer	Andrew North
Facilitator	Rosalind Reeves

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Roles and Responsibilities regarding sex trafficking and safeguarding children and vulnerable adults

Introduction

An early meeting of the task group suggested it would be good for them to have a better understanding of the roles and responsibilities of the various agencies involved in the sex trafficking and protection issues. This summary was produced from some initial research over the web and circulated to relevant officers for comment before being presented to members.

LA - children's social care

LA children's social care has a general duty to safeguard and promote the welfare of all children in need in their area, regardless of their immigration status. They have responsibilities for unaccompanied children, as well as those who arrive in the UK with their parents and for whom there are concerns regarding their safety and welfare.

Local authority children missing education teams

In England, local authorities have a statutory duty to identify children missing from education. The named contact or team responsible for identifying children missing from education should be competent and confident to respond to children who may have been trafficked.

Education services

Children trafficked into the country may be registered at a school for a term or longer, before being moved to another part of the UK or abroad. This pattern of registration and de-registration may be an indicator that a child has been trafficked.

Health services – Gloucestershire Primary Trust

Trafficked children may be seen at the full range of health settings. Professionals should be alert to potential signs of abuse and trafficking including inconsistencies in addresses, any deliberate vagueness with children or carers being unable to give details of next of kin, names, telephone numbers or other personal details.

Youth offending teams

Staff working in Youth Offending Teams may encounter trafficked children who have been charged with criminal offences. A child's reluctance to disclose the real circumstances in which he or she arrived in the country will have implications for a number of youth criminal justice processes. Parenting and carer assessments may be difficult as adults presenting as carers may be implicated in the trafficking process and would not be acting in the best interests of the child.

Police

Under section 46 of the Children Act 1989, when the police are concerned that unless they take action the child is likely to suffer significant harm, they may use their powers to either remove a child to a safe place or prevent the child's removal from a safe place, for example a hospital. There are a number of specialist teams, which are separate from the child abuse investigation teams, in police services across the UK that have expertise in

dealing with trafficking cases. There are also joint intelligence teams in key locations across the country comprising immigration, police and other agencies which help to identify child protection concerns. Police services should take all necessary steps to ensure that children at risk of being trafficked do not fall through the gap between operational teams.

Crown Prosecution Service

The CPS policy guidance *Safeguarding Children: Guidance on children as victims and witnesses* provides detailed practical and legal guidance to prosecutors dealing with cases that involve children and young people as victims and witnesses.

UK Borders Agency (UKBA)

UKBA is an executive agency of the Home Office which has assumed responsibility for managing immigration control in the UK. It may be the first official agency to have contact with child victims of trafficking. Its interventions may be triggered by the particular circumstances of the case or by international intelligence about trafficking. UKBA is likely to be a source of referrals to child welfare agencies.

The immigration officer's role, alongside considering the eligibility of the child for entry into the UK, is to be alert to the need to keep children safe from harm. They should ensure that immigration processes and decisions made in respect of children take into account their individual situation, views and welfare.

UK Human Trafficking Centre (UKHTC)

The UKHTC was established in October 2006, following a proposal from ACPO. It comprises staff from various disciplines bringing a multi-agency approach to the Centre's response to trafficking both into and within the UK.

It aims to improve and co-ordinate the law enforcement response to human trafficking, working closely with its partners in delivering a diverse set of programmes. A number of these will be targeted campaigns on preventing and reducing human trafficking and improving knowledge and understanding of the problem through best practice and training. A key element in the UKHTC's approach to preventing and reducing human trafficking is to ensure that victims are adequately safeguarded and protected from harm.

Specific to Gloucestershire

Gloucestershire Public Protection Bureau

The Gloucestershire Public Protection Bureau (GPPB) was formed on 20th April 2009 to make Gloucestershire a safer place by working in partnership to reduce harm to both individuals and communities. The launch of the Bureau was a significant step towards enhancing partnership working and the essential sharing of information. There are specific portfolio dealing with child protection and Prostitution and Human Trafficking

They work in partnership with the following agencies and their success depends on multi agency cop-operation.

- Gloucestershire Probation Service
- Gloucestershire Safeguarding Team
- Gloucestershire Primary Trust
- CPS
- HM Prison Service
- Strategic Coordinator for Domestic Abuse and Sexual Violence
- The Independent Domestic Violence Advisory Service (IDVA)
- Gloucestershire Domestic Abuse Support Service (GDASS)

Role of Cheltenham Borough Council

Cheltenham Borough Council recognises that it has a duty of care towards all children and vulnerable adults who are involved in the services it provides, and that it has a responsibility to safeguard the well-being of such children and adults.

The council has a [safeguarding children and vulnerable adults policy](#).

In terms of vulnerable adults, the council works within the [Gloucestershire Multi Agency Safeguarding Adult Policy and Procedures](#).

Links with the licensed sex industry and other venues

The Council has a statutory duty to control the “sex industry” in its district in the interest of public safety, maintaining law and order and to, in so far as it is possible, ensure that issues highlighted in this review do not occur.

As a district council, CBC has no statutory duties or powers in relation to trafficking however it can contribute to dealing with issues relating to the sex industry in partnership with other agencies.

CBC, as Licensing Authority, does have the powers to regulate and control sex shops, sex cinemas and sexual entertainment venues.

It does so by way of policies (for example, the Council considers it inappropriate to licence a sexual entertainment venue in the vicinity of residential areas, schools or near shops used by or directed to families or children) and through strict conditions (for example a normal sex establishment licence is subject to 36 standard conditions).

For other premises not specifically licensed as sex establishments, the Council already consults with, inter alia, the Gloucestershire Children Safeguarding Board on all new and variation applications thereby giving them opportunity to make representations where they consider it necessary in the interest of promoting the licensing objectives (i.e. the prevention of crime and disorder, prevention of public nuisance, public safety and the protection of children from harm).

Gloucestershire Domestic Violence Support and Advocacy Project (GDVSAP)

Amanda Wilson heads up a countywide project to raise awareness of trafficking and grooming and attends a quarterly national forum. She works closely with the Police and the Public Protection Bureau. She recently ran a film event in October and gave a

presentation to the Cheltenham Safeguarding forum. She would be happy to come and talk to the scrutiny task group.

Gloucestershire Action for Refugees and Asylum Seekers (GARAS)

Gloucestershire Safeguarding Children Board (GSCB)

GSCB is a key statutory mechanism for agreeing how the partner agencies co-operate to safeguard and promote the welfare of children and young people in Gloucestershire, and for ensuring the effectiveness of what they do. Their website [Gloucestershire Safeguarding Children Board](#) (GSCB). provides a valuable resource of information, advice and guidance on all child protection and safeguarding matters.

Cheltenham Safeguarding Forum

CBC and CCP set up the forum in partnership in 2011 and as a result of its popularity it meets bi monthly. The purpose of the forum is for front line workers from different sectors to come together to discuss all aspects of safeguarding. The forum invites speakers to update the forum on current issues and help resolve issues identified by the forum. The forum also gives workers the opportunity to share best practice and communicate concerns to relevant groups.

October 2012

Cabinet Member Housing and Safety response to recommendations of a scrutiny task group

Cabinet

16 April 2013

Scrutiny Task Group – Sex Trade

As the task group said in the introduction to their report, this review was sparked off by some media coverage which suggested that Cheltenham might be a 'hotspot' for sex trafficking. After speaking to the police and public protection, the task group concluded that trafficking was not a significant issue in this town. I welcome that conclusion and that we are now in a position to give that reassurance to the public. That is not to say that there is no such activity in Cheltenham but it is on a scale that the police are geared up to deal with.

The task group also concluded that the level of sexual exploitation of vulnerable children and adults was no more prevalent a problem than any other similar town. However there was no room for complacency and they highlighted the shared feeling amongst agencies that the "stone remains unturned" when it comes to identifying the true extent of these issues. I take these issues very seriously which is why I initiated a Safeguarding seminar in the Council Chamber on 4 February this year. Ten of our elected members attended and representatives from a whole range of agencies and groups. That brought home to me the complexity of this issue and the need to have a multi agency approach to tackling it.

We have a Designated Safeguarding Officer in the council, namely Tracy Brown, the Partnerships Team Leader. She has worked hard to update the Cheltenham Borough Council Safeguarding Handbook which includes new protocols and best practice for safeguarding children and vulnerable adults. The handbook sets out plans for training and raising awareness on safeguarding issues for staff and elected members and I was pleased to be able to bring this to Cabinet for approval on 12 March. This policy will now be taken forward at a local level by myself working with the Chief Executive and the council's Safeguarding Officer.

In 5.16 the task group concluded that 'combatting sexual exploitation is not a primary role for the council' and in section 8.1 of their report, 'these are multi-agency issues that require partners to work together to achieve the best outcomes for the people of Cheltenham'. For that reason I have struggled with some of the recommendations from the task group that ask the Cabinet to agree specific actions for the council outside of this multi-agency approach. Indeed the Overview and Scrutiny Committee when it considered the report suggested there needed to be more clarity on the recommendations.

For those reasons my amended recommendations for Cabinet to approve would be as follows:

- 1. The Cheltenham Safeguarding Forum considers the task group report at its meeting on 26 April 2013 to discuss how it might support the recommendations.**

- 2. Similarly the task group report be considered by the Positive Lives Partnership at their meeting on 23 May 2013.**
- 3. The Designated Safeguarding Officer to collate the responses and bring a report back to Cabinet.**
- 4. The Chief Executive to forward the scrutiny task group report to the Gloucestershire's Police and Crime Commissioner and the Police and Crime Panel inviting any comments.**

Cheltenham Borough Council

Cabinet

16 April 2013

Scrutiny Task Group – UBICO

Report of the Overview and Scrutiny Committee

Accountable member	Councillor Duncan Smith, Chair of Overview and Scrutiny Committee
Accountable officer	Jane Griffiths, Director - Commissioning
Ward(s) affected	All
Key Decision	No
Executive summary	<p>The Overview and Scrutiny Committee set up a task group to review the effectiveness of the new arrangements under UBICO six months on from their coming into operation. A copy of the task group report and recommendations is attached.</p> <p>The task group involved officers and the relevant Cabinet Member in the discussions so that there was a consensus on the approach which is being outlined within their report.</p> <p>The matter was considered by the Overview and Scrutiny Committee on the 18 March 2013 who were satisfied that the task group had met their terms of reference and endorsed the recommendations and forwarded them to Cabinet for approval.</p>
Recommendations	<p>The Cabinet is recommended to approve the recommendations of the scrutiny task group report (as set out at item 8 of Appendix 1 of this report and detailed below:</p> <ol style="list-style-type: none"> 1. Review the decision not to nominate any borough councillors to the Board by September 2013 (as set out at 6.7 of the report). 2. Review the customer service arrangements at an appropriate time, but no later than by the end of September 2013 and consider whether delivery of this service should return to the depot (as set out at 6.2 and 6.3 of the report). 3. Review internal and external communication strategies by September 2013 (as set out at 6.4 and 6.5 of the report). 4. Review the emptying frequency timetable for the bring site facilities as part of the review of bring sites by September 2013 (as set out at 6.10 of the report). 5. Consider the adoption of waste and recycling literature (bin tags) which include information including collection

dates, bin information and key messages, as produced by Tewkesbury Borough Council by September 2013 (as set out at 6.4 of the report).

6. At the end of the season (end of April 2013) assess the overall impact of the decision by the senior football league to cease coordination of their sports pitch bookings and if this has had a largely negative impact on resources within the customer services team ask the senior football league to reconsider their decision (as set out at 6.9 of the report).
7. Consider providing additional marketing resource on an invest to save basis for the promotion of the trade waste service by September 2013 (as set out at 6.8 of the report).

<p>Financial implications</p>	<p>There are no direct financial implications arising from this report, apart from the 'invest to save' request from recommendation 7, in respect of promoting the trade waste service. The resource implication for this has yet to be quantified, and would need to clearly demonstrate that additional income would offset costs.</p> <p>Contact officer: Des Night, Accountant des.knight@cheltenham.gov.uk, 01242 264124</p>
<p>Legal implications</p>	<p>None directly arising from the recommendations.</p> <p>Contact officer: Shirin Wotherspoon shirin.wotherspoon@tewkesbury.gov.uk, 01684 27201</p>
<p>HR implications (including learning and organisational development)</p>	<p>There are no direct HR implications arising from this report, but two aspects which will need to be considered.</p> <p>Recommendation 2 reviewing the location of customer service staff may have both HR and cost implications depending on the exact wording of their contracts of employment.</p> <p>The resource implication for the 'invest to save' request from recommendation 7 has yet to be quantified, and this matter would need to be reconsidered before any decision was taken.</p> <p>Contact officer: Richard Hall, HR Business Partner Richard.hall@cheltenham.gov.uk, 01594 812634</p>
<p>Key risks</p>	<p>No risks arising from the report.</p>
<p>Corporate and community plan Implications</p>	<p>None directly arising from the report.</p>
<p>Environmental and climate change implications</p>	<p>Ubico as a service provider are key in helping to support the delivery of a reduction in residual waste going to landfill and delivery of the council's biodiversity policies in relation to parks, gardens and open spaces.</p>

Report author	Contact officer: Jane Griffiths, Director – Commissioning jane.griffiths@cheltenham.gov.uk , 01242 264126
Appendices	<ol style="list-style-type: none">1. Scrutiny task group report and appendices2. Extract from the minutes of the O&S meeting 18 March 2013

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SCRUTINY TASK GROUP REPORT

Overview and Scrutiny Committee – 18 March 2013
Cabinet – 16 April 2013

Ubico

1. INTRODUCTION

- 1.1 The new service commissioned from Ubico came into operation on 1 April 2012 and six months on from this it was considered appropriate for a scrutiny task group to review the service being provided.
- 1.2 The task group were specifically tasked with reviewing the Service Level Agreements and considering whether the benefits were being realised and the effectiveness of the service. Part of this was to include the customer's view of the service being offered and whether they had noted any changes.
- 1.3 This report sets out the findings and recommendations arising from the scrutiny review by the Ubico scrutiny task group.

2. MEMBERSHIP AND TERMS OF REFERENCE

2.1 Membership of the task group:-

- Councillor Andrew Chard (Chair)
- Councillor Jacky Fletcher
- Councillor Tim Harman
- Councillor Charles Stewart (Vice-Chair)
- Councillor Pat Thornton
- Councillor Suzanne Williams

A member of Cotswold District Council was invited to join the group as a co-optee but no nomination was received.

2.2 Terms of reference:-

- To understand how the contract is being monitored
- To identify whether the business benefits of setting up Ubico are being delivered
- To ascertain whether the service is being delivered in accordance with the Service Level Agreement

3. METHOD OF APPROACH

3.1 The task group met on seven occasions and spoke to a range of people involved with Ubico. They all contributed to enabling the task group to assess the effectiveness of the service and identify areas for improvement;

- Jane Girffiths, Director - Commissioning
- Rob Bell, Managing Director (Ubico Ltd)
- Scott Williams, Strategic Client Officer (CBC/CDC)
- Members of Street Cleaning, Landscaping and Waste & Recycling crews in Cheltenham
- Judy Hibbert, Customer and Support Services Manager
- Karen Watson, Customer Relations and Research Manager
- Business representatives and users of trade waste services from across Cheltenham via the Cheltenham Business Partnership Manager and questionnaires
- Councillor Colin Hay, Ubico Board Observer
- Councillor Roger Whyborn, Cabinet Member Sustainability

3.2 Members would like to thank all of the officers and individuals who attended meetings and contributed to the review.

3.3 The task group review included;

- Consideration of the relevant extracts from the Ubico Service Level Agreement
- Review of performance data
- Review of complaints data
- Q&A session with members of staff from the Street Cleaning, Landscaping and Waste & Recycling teams.
- A site visit to the Cotswold and Cheltenham depots
- Q&A session with the Managing Director (Ubico) and Strategic Client Officer (CBC/CDC)
- Q&A session with the Customer and Support Services Manager and Customer Relations and Research Manager
- Q&A session with the Ubico Board Observer
- Questionnaires to business representatives and users of trade waste services from across Cheltenham and consideration of feedback
- Consideration of the service disruption due to snow in mid January
- Consideration of a briefing regarding the rationale for Ubico Board structure
- Q&A session with the Cabinet Member Sustainability

4. CURRENT SERVICE DELIVERY

4.1 Ubico is a local authority company jointly owned by CBC and Cotswold District Council (CDC). The company is governed by articles and a shareholder agreement, and the leaders of the two councils act as shareholders. The Board of Directors comprises;

- Rob Bell, Managing Director
- Ralph Young, Chairman (CDC nominated director)
- Grahame Lewis, Director (CBC nominated director)
- Frank Wilson, Finance Director

- 4.2 Both councils have contracts with Ubico to deliver a range of services and for Cheltenham these services are;
- Waste and recycling
 - Trade waste
 - Street cleaning
 - Grounds maintenance
 - Toilet cleaning
 - Fleet management
 - Sports pitch marking and pavilion cleaning
 - Highways agency agreement
 - School grounds maintenance contract
 - Nursery
- 4.3 The client side function is undertaken by a strategic client officer which is a shared post between CBC and CDC. When at CBC the post holder (Scott Williams) reports to the Director Commissioning and the Cabinet Member Sustainability.
- 4.4 The customer interface for the services in scope sits with the customer services team at the Municipal Offices and is managed by Judy Hibbert, the Customer and Support Services Manager.
- 4.5 The Board of Directors informally report to the shareholders on a quarterly basis and their first AGM will be held in September 2013. Monthly meetings whereby Ubico present performance data are held with the Client Monitoring Officer and Director Commissioning (and her CDC equivalent). These meetings also provide an opportunity to discuss longer term operational and strategic issues which may impact on service delivery. In addition there is a quarterly performance meeting which is attended by the respective Cabinet Members. Responsibility for resolving day to day operational issues lies with Ubico.
- 4.6 No borough councillors sit on the Board but each council may nominate one councillor to attend as Board Observer. CBC has nominated Councillor C. Hay as Board Observer.
- 4.7 The employees of Ubico are either former CBC/CDC employees or were employed by SITA who was the contractor for CDC.

5. OUR FINDINGS

- 5.1 Members of the task group were comfortable that the contract was satisfactorily monitored by the shareholders, officers and the Cabinet Member but felt that there was a general lack of understanding from members across the council regarding the governance arrangements for Ubico (i.e. who was on the Board of Directors and who was responsible for providing members with feedback relating to performance).
- 5.2 Members felt strongly that the decision not to include borough councillors on the Board of Directors, other than as an Observer, was questionable. They considered the rationale behind the decision and remained unable to agree with the decision.

- 5.3 The task group's discussion following the service disruption due to snow did highlight the need for clear lines of accountability and responsibility in a commissioner/provider environment and the need for these to be communicated effectively with the public and members.
- 5.4 The task group identified that the split between customer services and Ubico has on occasion lead to an increase in work. Staff from the Landscaping team advised the task group that in the past such requests had been dealt with immediately by the relevant manager but since this function had transferred to the Municipal Offices such requests resulted in job tickets being raised. The staff members in attendance explained that someone had to undertake a visit for each job ticket and often found that the issue had already been resolved or was not as described on the job ticket, which they felt was an inefficient use of the person's time. Officers supporting the review felt that the practice of raising job tickets had customer benefits in providing an audit trail and the means by which lessons could be learnt. They also felt that ultimately this practice would have been adopted regardless of where the customer service end of the operation was sited.
- 5.5 The staff members the task group spoke with also felt that there were issues with the knowledge base of some staff within Customer Services which resulted in misinformation being passed on to customers and crews alike.
- 5.6 The customer service team acknowledge that there has been a steep learning curve for them. Although two members of staff transferred from the former operations team, all staff within the customer contact centre have had to be trained to deal with the services now in scope. In addition they also had to put in place a process for the renewals for the garden waste scheme and they have picked up additional work which was not anticipated such as liaison with individual clubs for sports pitch bookings.
- 5.7 The task group noted that officers have already identified some of the above issues and that a systems thinking review is being undertaken to consider how the interface between customer services and Ubico works. Staff were undertaking visits to CBC pitches and pavilions and accompanying waste and recycling crews on collections in an effort to better understand any issues faced at an operational level.
- 5.8 Operatives from the Waste & Recycling and Street Cleaning teams raised numerous concerns mostly relating to the need for better communication - staff needed to be made aware of changes and the reasons behind them otherwise this could lead to discontent amongst frontline staff who did not understand the changes that had taken place.
- 5.9 The managing director has indicated that he now has a clear business focus for the services that Ubico provide rather than in the past being drawn into corporate matters relating to the council.
- 5.10 The task group did consider whether during the service disruption the split between client and contractor had made the situation more difficult than when it had previously been delivered directly by the council.

- 5.11 Having reviewed the Service Level Agreement in conjunction with performance data, members of the task group were generally satisfied that the service level agreement was being met, performance was good and when issues were identified there was a quick response to remedial action. The group better appreciated the scale of the operation following a site visit to the CBC and CDC depots and having met with the managing director and members of the refuse crews they better understood some of the obstacles faced by Ubico in being able to undertake various tasks (parked vehicles preventing access, etc).
- 5.12 A questionnaire had been distributed via the Chambers network to businesses. Members were disappointed that only 5 of a possible 500+ trade waste clients had responded to the questionnaire, which had been made available in hard copy as well as online. However, those clients that did respond were very happy with the service being provided. In addition the task group had received a response from a business using a private sector provider. Officers from Ubico welcomed the feedback that had been received, which they considered valuable in helping to inform the review of trade waste that was being undertaken on behalf of CBC and CDC. This was a sizeable piece of work and would take some time.
- 5.13 The task group were surprised to learn that neither CBC or Ubico did not actively promote the trade waste service to potential new customers. It was noted that this was historical following legal advice which suggested that the council could not proactively market themselves for new business. Members felt that this was nonsensical and should be revisited. Officers conceded that a larger number of trade waste customers had been lost than had been gained which they attributed to the recession and to a competitive private sector market.
- 5.14 For the period 01 April 2012 to 31 December 2012 there were 8439 enquiries/works orders raised for Ubico services and logged by the Customer Services Team. Most related to requests for recycling boxes and missed collections. In this period there had been 185 complaints and the vast majority of these related to missed collections. Officers were open about the fact that there were issues regarding the way in which Ubico and CBC dealt with customer issues and in recognition of this, improvement activity by Ubico and customer services, as part of the systems thinking work, was underway. Members felt that the level of complaints was proportionately low given the fact that Ubico service 51,000 properties at least once a week, sometimes more than once and the number of complaints had fallen in quarter three after a peak in quarter two.
- 5.15 During the service disruption it was noted that the number of enquires and calls to the council increased significantly. The contact centre normally deals with around 2000 calls and in the two week period of the disruption this rose to around 4000 calls per week. In addition a number of people contacted the customer relations team and wished their calls to be logged as formal complaints.
- 5.16 The task group were concerned about the way in which the council communicated with the public. This concern was heightened in relation to the service disruption. The task group felt that more could be done to put out proactive messages and use different media channels. There was particular concern about how policies are communicated such as the closed bin lid and side waste policy.

- 5.17 The task group raised their concerns about the bring site facilities and the need to ensure that skips were cleared on a regular basis. There was a perception that they were always full which members felt lead to frustration and rubbish being left at the side of skips. It was noted that a review of bring sites would be undertaken in 2013/14.

6. OPTIONS CONSIDERED

- 6.1 It was noted that Ubico had only been in operation for less than 12 months so there were inevitably teething issues. However, the task group considered a number of options for improvement.
- 6.2 Customer service improvements. Consideration was given as to whether it would be beneficial for staff to undertake site visits to better understand some of the issues that result in (for example) late/missed bin collections, which would in turn improve their knowledge and result in improved advice for the customer. The task group also considered whether it was appropriate to split customer services from the operation.
- 6.3 Complaints/feedback process. The task group noted that a review is already underway but felt that there should be more guidance as to how customer service staff deal with initial queries. They also felt that it was important to ensure that outcomes are recorded on job tickets which should then be added to the system when a job is closed in order that outcomes can be monitored and a more proactive approach to resolving issues may be more easily adopted.
- 6.4 Communication of policies – the website should include the reasoning behind the policies (e.g. closed bin policy is for H&S reasons). The task group also felt that it would be beneficial to adopt a similar leaflet (bin hanger) such as those circulated by Tewkesbury Borough Council. They discussed how there needed to be more proactive communication with regards to the benefits of recycling.
- 6.5 Communications. Consideration was given as to whether UBICO need to be more proactive about self promotion and create press releases which aim to explain policies and procedures. The task group were keen to see the council provide clear messages to the public (without jargon) and consideration was given as to whether more could be done with the local radio stations particularly if there are specific messages that need to be given to all residents. The use of social media and web sites were acknowledged as having a place but felt that not all residents access these and there maybe an over reliance on this media channel.
- 6.6 Feedback from members of the Street Cleaning, Landscaping and Waste & Recycling teams had suggested to the task group that there was something to be done around internal communications which they felt had suffered as a result of the transfer of customer services from the depot to the Municipal Offices.
- 6.7 Governance: The task group considered how the governance arrangements are communicated to all members. They also considered whether there should be a review of the Board structure arrangements and possible move from Observer only status for borough councillors.

- 6.8 Trade waste. Members felt that the Council, through Ubico, should consider assigning resources to promote the trade waste service in an effort to secure new business.
- 6.9 Pitch bookings. Members were not comfortable with the decision of the senior football league to cease coordination of the sports pitch bookings. This had resulted in the customer services team having to deal with numerous people rather than one individual and proved very labour intensive. Members were of the opinion that the senior football league should be asked to reconsider this decision and have one individual coordinate bookings as the junior football league did.
- 6.10 Bring site facilities. Members felt that the frequency with which the skips were cleared should be considered as part of the review scheduled for 2013/14.

7. CONSULTATION AND FEEDBACK

- 7.1 During the course of the review the task group consulted trade waste customers regarding their views of the service being delivered. The feedback received is summarised at 5.12 of this report.
- 7.2 Throughout the review the task group consulted widely with officers who helped members to assess the effectiveness of the service being delivered. A copy of the report was circulated to officers who had contributed to the review and those that would be involved in taking forward some of the recommendations and their comments were incorporated into the final report.
- 7.3 The Cabinet Member Sustainability attended the 20 February 2013 meeting and was given the opportunity to offer his views on the way in which the service was provided and take part in discussions regarding the final report and recommendations of the task group. The Cabinet Member was pleased with the way in which the task group had conducted their review and regarded the findings and recommendations as being constructive.

8. RECOMMENDATIONS

- 8.1 Taking all of our findings and options into consideration, the Ubico scrutiny task group would like to make the following recommendations for consideration by Cabinet, namely that;
- 1. Review the decision not to nominate any borough councillors to the Board by September 2013 (as set out at 6.7 of the report).**
 - 2. Review the customer service arrangements at an appropriate time, but no later than by the end of September 2013 and consider whether delivery of this service should return to the depot (as set out at 6.2 and 6.3 of the report).**
 - 3. Review internal and external communication strategies by September 2013 (as set out at 6.4 and 6.5 of the report).**

4. Review the emptying frequency timetable for the bring site facilities as part of the review of bring sites by September 2013 (as set out at 6.10 of the report).
 5. Consider the adoption of waste and recycling literature (bin tags) which include information including collection dates, bin information and key messages, as produced by Tewkesbury Borough Council by September 2013 (as set out at 6.4 of the report).
 6. At the end of the season (end of April 2013) assess the overall impact of the decision by the senior football league to cease coordination of their sports pitch bookings and if this has had a largely negative impact on resources within the customer services team ask the senior football league to reconsider their decision (as set out at 6.9 of the report).
 7. Consider providing additional marketing resource on an invest to save basis for the promotion of the trade waste service by September 2013 (as set out at 6.8 of the report).
9. **TAKING FORWARD THE RECOMMENDATIONS FROM SCRUTINY**
- 9.1 It is proposed that should the recommendations be approved by Cabinet then the recommendations should be considered at the quarterly performance meeting of Ubico.
 - 9.2 A report should be sent back to the Overview and Scrutiny Committee in October 2013 in order that they can review progress and a copy of this report should be circulated directly to those members that formed the original scrutiny task group.

Report author	Councillor Andrew Chard, Chair of the scrutiny task group Contact officer: Jane Griffiths, Director - Commissioning jane.griffiths@cheltenham.gov.uk 01242 264126
Appendices	<ol style="list-style-type: none"> 1. The one page strategy for this review 2. A summary of the responses to the trade waste questionnaire 3. An example of the bin tags circulated by TBC
Background information	n/a



SCRUTINY REVIEW – ONE PAGE STRATEGY

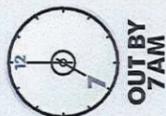
FOR COMPLETION BY THE OVERVIEW AND SCRUTINY COMMITTEE	
Broad topic area	Services provided by UBICO
Specific topic area	The new commissioned service UBICO came into operation on 1 April 2012. Six months on from this implementation it is now appropriate to set up a scrutiny task group to review the service being provided. Is it meeting its Service Level Agreements and are the benefits being realised? What is the customer's view of the service being offered and have they noted any changes?
Ambitions for the review	To understand how the contract is being monitored To identify whether the business benefits of setting up UBICO are being delivered To ascertain whether the service is being delivered in accordance with the Service Level Agreement
Outcomes	Identify any gaps or issues with the service and make recommendations for them to be resolved.
How long should the review take?	Report back to O&S on 18 March 2012 and then on to Cabinet
Recommendations to be reported to:	Cabinet
FOR COMPLETION BY OFFICERS	
Members	Cllrs Jacky Fletcher, Suzanne Williams, Tim Harman, Andrew Chard, Charlie Stewart and Pat Thornton
Officers experts and witnesses	Scott Williams – Client Officer Rob Bell – Managing Director UBICO Judy Hibbert – Customer and Support Services Manager Karen Watson – Customer Relations and Research Manager
Sponsoring officer	Jane Griffiths, Director of Commissioning
Facilitator	Saira Malin, Democracy Officer
Cabinet Member	Councillor Whyborn, Cabinet Member Sustainability
FOR COMPLETION BY THE SCRUTINY TASK GROUP	
Are there any current issues with performance?	Members wanted to know more about; <ul style="list-style-type: none"> • The co-ordination of refuse collections with street cleaning • How UBICO complaints are managed • Why green waste bags are not available across the borough • The side waste enforcement policy – public perception • Trade waste and recycling
Co-optees	A representative from Cotswold District Council was invited but no response was received
Other consultees	<ul style="list-style-type: none"> • Refuse crew members • Trade waste client representatives • Officers as necessary
Background information	<ul style="list-style-type: none"> • UBICO contract and schedules (to be circulated by email and in hard copy) • Complaint details (to be circulated by email)

Suggested method of approach	<ul style="list-style-type: none"> • Site visit • Consideration of customer complaints • Speaking to the refuse crew on the frontline • Speaking to businesses (shops, hotels and pubs) about the trade refuse service provided by UBICO and other providers • A focus towards the customer perspective
How will we involve the public/media? Or at what stages	A press release at the appropriate time

Who is your current waste service provider?	How long have you been with your current provider?	What made you choose your current provider?	Would you describe the service as reliable?	Why/why not?	Would you describe the service as flexible?	Why/why not?	Do you feel the service offers value for money?	Why/why not?	Do you know who to contact in the event of a problem?	Do you feel the resolution of issues or complaints to be satisfactory?	Have you been given advice from your service provider about how/where you should store your bins and the containment of waste?	Have you ever used another service provider?	If yes, who?
Ubico	6+ months	We've always used them.	Yes	I am the Facilities Manager and have few, if any problems - the bins are emptied weekly, I don't see them come and go but the service is done so we are happy.	Yes	If our needs change I just call the Council and they change the bins to whatever is required. We stopped having one bin and for some time have recycled cardboard.	Yes	It's not expensive for a reliable and good service. It is a must but we don't need to worry about it.	Yes	No	No		
Grundons and Biffa	6+ months	Value for money	Yes		Yes		Yes		Yes	n/a	Yes	Yes	Biffa exclusively
Ubico	6+ months	Automatically transferred from CBC	Yes		Yes		Yes		Yes	n/a	No	No	
Ubico	6+ months	Didn't realise the choice available	Yes		n/a		I don't know	I have nothing to compare it to	Yes	n/a	Yes	Yes	Printwaste for recycling
Ubico	6+ months	Automatically transferred from CBC	Yes		n/a		Yes		Yes	n/a	Yes	No	
Ubico	6+ months	Automatically transferred from CBC	Yes		Yes	sometimes I forget to put the bins out and Ubico always come in and get the keys to access the bins	I don't know	I have never shopped around to compare prices	No	n/a	No	No	

Are you using a residual and/or recycling service?	If not both, why not?	Would you be prepared to segregate your waste in return for a cheaper service?	Are you happy with the range of bins provided?	If not, why?	Have you experienced any problems with invoicing?	Do you have any further comments?
Both		Yes	Yes		Not that I am aware of and I would have been advised if there were problems.	
Both	We do this anyway	Yes	Yes		No	Haven't considered Ubico as they haven't approached the Regent Arcade for the business
I don't know	Yes				No	No
Both	Yes				Yes due to an admin error at Ubico but the issue was resolved satisfactorily	No
I don't know	Yes		Yes		No	No
I don't know	Yes		Yes		No	No

Collection dates 2012-2013



Important!
All bank holiday collections day changes are highlighted in yellow.

Green bin and caddy

Monday 2 April
Monday 16 April
Monday 30 April
Monday 14 May
Monday 28 May
Monday 11 June
Monday 25 June
Monday 9 July
Monday 23 July
Monday 6 August
Monday 20 August
Monday 3 September
Monday 17 September
Monday 1 October
Monday 15 October
Monday 29 October
Monday 12 November
Monday 26 November
Monday 10 December
Monday 24 December
Monday 7 January
Monday 21 January
Monday 4 February
Monday 18 February
Monday 4 March
Monday 18 March

Please note!
If you are a garden waste customer, please put your brown bin out on the same day as your green bin.

Blue bin and caddy

Tuesday 10 April
Monday 23 April
Tuesday 8 May
Monday 21 May
Monday 4 June
Monday 18 June
Monday 2 July
Monday 16 July
Monday 30 July
Monday 13 August
Tuesday 28 August
Monday 10 September
Monday 24 September
Monday 8 October
Monday 22 October
Monday 5 November
Monday 19 November
Monday 3 December
Monday 17 December
Monday 31 December
Monday 14 January
Monday 28 January
Monday 11 February
Monday 25 February
Monday 11 March
Monday 25 March

REMEMBER
Food waste collections are every week

Your recycling services



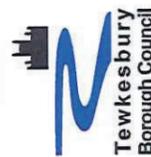
Calendar on reverse!

This year the council would like to recycle 60% of rubbish collected. At present we are recycling around 55%, so we're nearly there. The council's new campaign is 'Sights on 60%' and we need everybody's help. Did you know, in your blue bin you can recycle more items than any other area in Gloucestershire?

NEW ITEM ADDED
Now you can recycle even more! Aluminium foil can now be put in the blue bin too. Please make sure it is clean and free from grease or fat. More information can be found inside.

Please remember to recycle as much as you can and use your green bin as a last resort. The lid on the green bin must be closed and we will only collect the waste within it. Rubbish left to the side or on top of the bin will not be collected.

Please keep hold of this leaflet throughout the year as it contains important information about your recycling and food waste collections.



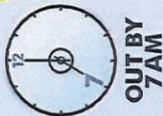
The Recycling Team

Information inside

Blue bin collections



Nearly 90% of residents are blue bin recyclers, let's keep up the good work!



OUT BY 7AM

	Yes please	No thanks
household plastic packaging	<ul style="list-style-type: none"> Household plastic bottles (all types including milk, drink, cleaning etc) Plastic containers (e.g. yoghurt pots, punnets, trays, tubs etc) 	<ul style="list-style-type: none"> Plastic bags and plastic film Plastic toys and plant pots Polystyrene and bubblewrap Videos, tapes, cds and DVDs Nappies
mixed glass	<ul style="list-style-type: none"> Clean glass jars, glass bottles (all colours) Tip: metal lids can also be recycled in the blue bin 	<ul style="list-style-type: none"> Window panes Pyrex dishes and crockery Light bulbs Milk bottles and drinking glasses
cans, tins, foil and aerosols	<ul style="list-style-type: none"> Food and drink cans Pet food cans Aerosols Biscuit and sweet tins Aluminium foil (clean sheets) Aluminium foil pots and trays 	<ul style="list-style-type: none"> Paint tins and gas canisters Pet food pouches Crisp packets and sweet wrappers Foil style wrapping paper
mixed paper	<ul style="list-style-type: none"> Newspapers and magazines Junk mail, white office paper and shredded paper Yellow Pages and directories Envelopes (remove windows) Wrapping paper (only paper types remove all decoration) All books (remove hardback covers) 	<ul style="list-style-type: none"> Wet or dirty paper Wallpaper Foil, plastic or non paper wrapping paper
card and cardboard	<ul style="list-style-type: none"> Card and cardboard Food packaging boxes and egg boxes Small quantities of corrugated cardboard 	
cartons	<ul style="list-style-type: none"> Tetra-pak style food and drink cartons, paper yoghurt pots etc. Paper ice-cream pots 	

Wash and remove lids or film

Remove all corks

Rinse

Please wrap shredded paper in paper or newspaper

Flatten all card

Wash and squash



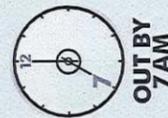
Food waste collections



66% of residents are food waste recyclers, join in with the success too!



food waste



OUT BY 7AM

Yes please	No thanks
<ul style="list-style-type: none"> Food - cooked and uncooked Raw and cooked fruit and vegetables Meat and fish, including bones and skin Cheese and other dairy products Eggs and egg shells Small amounts of liquids, oil and fat (including solid fats such as lard) Bread, cakes and pastry Tea bags, coffee granules Compostable lining 	<ul style="list-style-type: none"> Plastic (including carrier bags and non-approved biodegradable liners) Packaging of any kind Metal and glass Any other household waste Animal faeces Animal bedding Pet litter Pet carcases Cardboard (please recycle in blue bin) Nappies

For more information, visit www.tewkesbury.gov.uk/recycling

Kitchen caddies can be lined with compostable liners, tissue paper or newspaper. Transfer the lining and the food waste into the larger caddy and present at the kerbside every week for collection. Caddy liners must display the seedling logo.



Visit www.tewkesbury.gov.uk/foodwaste to find out where to buy them.

Caddies must not be lined with plastic carrier or shopping bags.

Food waste presented in these bags will not be collected. Both caddies can be washed clean and are dishwasher safe below 60°C.

This leaflet is printed on 80% recycled paper

Overview & Scrutiny Committee

Monday, 18th March, 2013
6.00 - 7.05 pm

Attendees	
Councillors:	Duncan Smith (Chair), Klara Sudbury (Vice-Chair), Nigel Britter, Barbara Driver, Colin Hay, Helena McCloskey, Ian Bickerton and Diane Hibbert
Also in attendance:	Councillor Roger Whyborn

Extract of the Minutes

1. **REPORT OF THE SCRUTINY TASK GROUP- UBICO**

Councillor Chard introduced the report of the scrutiny task group. He gave thanks to the members of the task group and the officers who had contributed to the review and the support they had received from Councillor Colin Hay as the observer on the UBICO Board and Councillor Roger Whyborn as the Cabinet Member responsible for this service. He did not intend to go through the report in detail but wished to highlight two particular recommendations.

Firstly he referred to the relationship between the council and UBICO. The task group were dismayed that there was no elected member representation on the UBICO board except for Councillor Hay who attended only as an observer. They acknowledged that members were not experts in the service but the same would apply to Cheltenham Borough Homes where there were a number of elected members on the board. The council should be the lead body but during the snow disruption, it seemed that decisions were being taken about the service without any consultation with the council. From the task group review it appeared that the management of UBICO felt they communicated effectively with staff but the staff did not always feel the same way. The task group also raised concerns about the communications between the council and UBICO and its residents which they felt was sometimes minimal and impersonal. This needed to be looked at along with the communications with commercial customers. They were particularly concerned to be told that UBICO were not allowed to approach businesses in the town to promote their services to commercial customers.

He invited questions from members.

Members welcomed the review and thought it was an excellent report. They were concerned that Cotswold District Council had not responded to the invitation to be part of the task group. They requested that a copy of the report be sent by the task group to Cotswold inviting their comment.

A member highlighted the successful operation of the CBH Board and thought UBICO should follow that good practice and have elected members on its Board.

The Chief Executive highlighted a potential reason why UBICO might not be able to be proactively seeking new business. As a local authority company it was restricted in the way it could operate under European procurement law. Under these arrangements the councils did not have to go down a full procurement route when setting up the company but it required the company to limit their business allowing only 10% to be picked up from other sources outside the councils. However he would still expect UBICO to be making the most of this 10%.

The Chief Executive went on to say that the council was represented on the board by an officer, namely, Grahame Lewis who was a board member. The original thinking had been that in essence the board was the operational arm of the service and therefore it was more appropriate to have officer representation on the board. He referred back to when the service had been in house and at that time the service was run by officers. He also highlighted that there could be potential confusion of roles between a Cabinet member making decisions on policy with regard to the service and another member on the UBICO Board making key decisions about the operations.

Councillor Hay spoke about his experiences as being an observer on the board. He had found the role very interesting and he was able to make comments from time to time but without trying to influence the board's decisions. He confirmed that the board does look at the day-to-day running of the business. He acknowledged that there were gaps in the way that UBICO is currently working with the council, particularly in forward planning and its awareness of the importance of reputation, particularly during the snow disruption. He suggested that members at Cotswold District Council may be more used to an arms length operation as their waste services had been previously operated by a private company for some time. With the benefit of hindsight, he saw there was a need to look at the incentives for UBICO to improve their services and maintain their contracts as it appeared that the risk always remained with the council and UBICO was a non-profit making organisation. He suggested this needed to be looked at by the Cabinet Member along with the issues raised about trade waste.

A member referred to 5.10 of the report and asked what conclusions the group had reached regarding whether the split between client and contractor had exacerbated the situation during the recent snow disruption. They added that under normal conditions their experience was that they received satisfactory responses to enquiries regarding waste collection. However during the snow nobody seemed to know what was going on and residents were left totally confused which badly affected the reputation of the Council and UBICO. Another member suggested that the disruption could have been compounded by the introduction of fortnightly collections.

Councillor Chard responded that they had not come to any specific conclusions on this matter. He added that with the benefit of hindsight it seemed that decisions were made which were not credible and there was uncertainty about who exactly made the decisions. This resulted in at least three days where a waste collection service could have been operated albeit in limited areas and staff appeared to be willing to work over that weekend to catch up.

The Director of Commissioning who had supported the task group was invited to speak by the chair. She reported that lessons had already been learnt from the snow disruption and there was an acknowledgement that there needed to be improvements in communications and more clarity over decision-making. Everybody involved had been comfortable with the recommendations in the task group report and there had been a recognition at the start of the working group that UBICO had only been in place for six months. Referring to Councillor Chard's comments that staff had been willing to work over the weekend in question, she advised that the company was not able to operate on a Sunday as the disposal sites were not open. There were also limits on the hours that staff could work. On that particular weekend the decision had already been taken that services would be recommenced on the Monday. In terms of staff working overtime, the overtime payments would have been a cost to the council rather than UBICO.

In response to a question from a member she advised that UBICO were looking at ways they could improve their response to future adverse weather conditions. Winter tyres were one option but snow chains were generally not applicable in this country as the snow was not usually deep enough to prevent damage to the tarmac.

The chair referred members back to the original one page strategy for the review set out in appendix 1 of the report. Members suggested that some of the issues with performance had not been particularly addressed during this review particularly with regard to availability of green waste bags across the borough, the side waste enforcement policy and co-ordination of refuse collections with street cleansing. After some discussion it was noted that many of these issues were being picked up by the Cabinet Member working group and it was important to give UBICO some time to address some of these issues. The Director of Commissioning advised members that the new Gloucestershire Joint Waste Committee would come into operation on 1 April and this needed time to bed in. It was agreed that it would be put on the agenda for the December meeting of this committee with a view to setting up a new task group in January 2014 to look at outstanding issues.

Resolved that to be scrutiny task group report be endorsed and forwarded to Cabinet on 16 April 2013.

Duncan Smith
Chairman

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**Cabinet Member Sustainability response to
recommendations of a scrutiny task group**

Cabinet

16 April 2013

Scrutiny Task Group – Ubico

The Scrutiny group has worked hard and should be commended for not being afraid to lift all the stones, and ask the difficult questions. In undertaking the review the task group looked at both Ubico and retained council functions such as the client side management and customer interface to ensure that the business benefits of establishing Ubico have been achieved. Some recommendations therefore of the task group relate to the council whilst others will need to be considered by both the council and Ubico as they require both organisations to respond.

Some of the recommendations are quite far reaching and deserve thorough examination, and it is good that the working group has given until September to complete the reviews. One of the key findings from the review is the need to communicate effectively to residents and businesses, especially during times of bad weather, or times of change. On the agenda this evening I am also presenting my report on the lessons learnt following the service disruption to waste and recycling earlier in the year and this too made reference to the need for clear communication with the public.

I intend to use the Cabinet Member working group on waste and recycling, which has three members of the O&S task group on it, as a sounding board to progress recommendations 2 to 6.

Recommendation 1 will in the first instance be reviewed by Cabinet, but essentially it is for the shareholders to decide, not the Cabinet or Council.

1. Review the decision not to nominate any borough councillors to the Board by September 2013 (as set out at 6.7 of the report).

I recognise that there is a substantial body of member opinion which supports the principle of full member participation on the board, but I would nevertheless like to more fully understand the O&S task group's rationale in putting forward this recommendation. I also understand the arguments against, principally surrounding board members' primary duty to the company, and resolution of this possible conflict would be an important early consideration if this idea is to be pursued. However this is a shareholder matter but I think that it is useful for Cabinet to review the decision. It should be noted however that any changes to the nomination process would also need to be agreed by other shareholder councils. I would suggest that the Leader needs to discuss the issue with the Leader of Cotswold District Council.

- 2. Review the customer service arrangements at an appropriate time, but no later than by the end of September 2013 and consider whether delivery of this service should return to the depot (as set out at 6.2 and 6.3 of the report).**

The O&S task group recognised that when they were undertaking the review it is still less than a year since the transfer of responsibility for customer contact moved from the former operations division to the customer services team. I am aware that officers are undertaking a systems thinking review and we need to let them complete this review before any consideration of the arrangements. I recognise that there is some double handling of issues (and it will be for the systems thinking team to propose solutions), however I am also aware that the council now has a better understanding of the customer issues and we have more resilience to deal with issues as they arise.

- 3. Review internal and external communication strategies by September 2013 (as set out at 6.4 and 6.5 of the report).**

I fully endorse this recommendation in relation to CBC functions and indeed have already agreed with officers that this is a priority. It will be a matter for the Ubico board to decide if they need to review their own internal communications with their workforce but this will be raised with them at the regular liaison meetings and asked to report back on what action they have taken.

- 4. Review the emptying frequency timetable for the bring site facilities as part of the review of bring sites by September 2013 (as set out at 6.10 of the report).**

I have already asked the officers to pick this up as part of their review. I hope that the review of bring sites will be completed by September but if this is not the case, as I am keen that the council undertakes the review within the context of the wider Gloucestershire Waste Partnership Strategy, I will update the O&S committee accordingly.

- 5. Consider the adoption of waste and recycling literature (bin tags) which include information including collection dates, bin information and key messages, as produced by Tewkesbury Borough Council by September 2013 (as set out at 6.4 of the report).**

The use of bin tags and any all other means of communications is being reviewed at this time. The Council's experience is that in normal operating conditions, in most areas, information such as collection dates is not the main challenge, and that by far the bigger challenge is how to communicate changes, and update residents on the range of materials collected, and their correct presentation.

- 6. At the end of the season (end of April 2013) assess the overall impact of the decision by the senior football league to cease coordination of their sports pitch bookings and if this has had a largely negative impact on resources within the customer services team ask the senior football league to reconsider their decision (as set out at 6.9 of the report).**

This is a CBC function and officers are comfortable with undertaking this review.

- 7. Consider providing additional marketing resource on an invest to save basis for the promotion of the trade waste service by September 2013 (as set out at 6.8 of the report).**

I have already asked officers and Ubico to prepare a business case as to how we can invest in our trade waste service and this will be part of this review. I am keen that the excellent service we provide should be marketed effectively and I will need to consider the resource implications when they are presented within the business case.

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Cheltenham Borough Council

Cabinet – 16 April 2013

Review of Gloucestershire Homeseekers Allocations Policy

Accountable member	Cabinet Member Housing & Community Safety, Councillor Peter Jeffries
Accountable officer	Martin Stacy, Housing & Communities Manager
Ward(s) affected	All
Key Decision	No
Executive summary	<p>One of the priorities identified within the Housing & Homelessness Strategy 2012-17 was to review Gloucestershire Homeseeker's Allocations Scheme in light of the Welfare Reform and increased flexibilities arising from the Localism Act.</p> <p>Gloucestershire Homeseeker's Management Board (GMHB) have now undertaken this review, and following extensive consultation, the following changes are proposed:</p> <ul style="list-style-type: none"> • To align the Allocations Scheme's bedroom entitlement criteria with the new Housing Benefit bedroom entitlement criteria for social housing tenants. This alignment would ensure there is no Housing Benefit (HB) shortfall as a result of households being deemed to be under-occupying their accommodation as a result of the new HB regulations for tenants in social housing. • To award additional preference and local connection to ex-members of the Armed Forces and their family members. This change would ensure the Allocations Scheme is in line with new regulations and the Community & Local Government's (CLG) Code of Guidance on Allocations. It also supports Gloucestershire's Armed Forces Covenant, which Cheltenham Borough Council has signed up to. <p>A number of additional changes were proposed by GHMB in July 2011, which we also now wish to implement. These were postponed until the implications of the welfare reform and Localism Act were more fully understood and guidance from the CLG on Allocations was published. A summary of these changes are detailed in Section 2.3 below and in Appendix 2 (the Banding Matrix).</p> <p>The proposed changes underwent a 12 week period of consultation. This expired on 26th March 2013, with no objections or alternatives being identified.</p>
Recommendations	To approve the proposed changes to Gloucestershire Homeseeker's Allocations Policy.

Financial implications	None arising directly from this report Contact officer: Des Knight, Des.knight@cheltenham.gov.uk 01242 264124
Legal implications	The Local Authority is required under the Housing Act 1996 to have in place an Allocations Scheme for determining the priorities and the procedures to be followed in allocating social housing. Prior to any amendments to the Scheme, the Local Authority must consult with those Registered Providers that have social housing within their district; allowing them a reasonable opportunity to comment on the proposals. Contact officer: Sarah Farooqi, sarah.farooqi@teWKesbury.gov.uk 01684 272693
HR implications (including learning and organisational development)	None arising directly from this report Contact officer: Richard Hall, Richard.hall@cheltenham.gov.uk , 01594 812634
Key risks	As set out in the risk register
Corporate and community plan Implications	This review of the Allocations Scheme supports our corporate objective: 'Strengthening our Communities' and our corporate outcome: 'People have access to decent and affordable housing.'
Environmental and climate change implications, including likely impact on the Local Authority's carbon emissions	None

Background

- 1.1 In June 2011 a Housing Review Working Group was set up to consider the challenges and opportunities arising from the welfare reform and Localism Act upon Cheltenham residents. The Working Group was made up of a number of Members and Senior Officers from the Local Authority.
 - 1.2 A key recommendation arising from the Working Group was for the Local Authority to adopt a new Housing & Homelessness Strategy. This Strategy was approved by Cabinet in July 2012.
 - 1.3 One of the measures identified within the Strategy was to review Gloucestershire Homeseeker's Allocations Scheme to take account of the welfare reform and Localism Act.
 - 1.4 Gloucestershire Homeseeker's Management Board (GHMB), which is made up of the District Authorities within Gloucestershire and a number of Registered Providers, have now undertaken this activity and have recommended a number of changes to the Allocations Scheme.
- 2. A summary of the proposed changes are as follows:**
- 2.1 **Aligning Gloucestershire Homeseeker's Bedroom Entitlement with the new Housing Benefit Bedroom Entitlement Regulations for social housing tenants**

- 2.1.1** One of the changes arising from the welfare reform is the introduction in April 2013 of the so-called 'bedroom tax' for households of working age who live in social housing. Currently, social housing tenants who claim Housing Benefit (HB) are able to under-occupy their accommodation without this affecting their HB entitlement. From April, households of working age who are deemed to be under-occupying social housing (as defined by the HB Regulations) will have their Housing Benefit entitlement restricted. Aligning the Allocations Scheme's bedroom entitlement with the HB regulations will ensure that low-income households are not placed in social housing that they cannot afford to keep.
- 2.1.2** The proposal is therefore to reduce the age at which an individual will be eligible for a single room from 18 to 16 years; and for two children of different sexes, who are expected to share, to be increased from up to 9 years to up to 10 years of age.
- 2.1.3** The Government announced in March 2013 a number of amendments to the bedroom eligibility criteria for Housing Benefit. These amendments mean that the following families will now remain entitled to an additional bedroom for Housing Benefit purposes:
- Foster carers who are between foster placements
 - Parents who have a child in the Armed Forces who still live with them when not in service
 - Children who require separate bedrooms on medical grounds (e.g. because of a disability)

It is proposed that Gloucestershire Homeseeker's Allocations Policy is aligned to these new criteria.

- 2.1.4** In view of these recent concessions by the Government, there remains the possibility that further changes may be made to the Housing Benefit bedroom eligibility criteria in the future. It is therefore proposed that Gloucestershire Homeseeker includes an overarching provision that its intention is to remain aligned to the Governments bedroom eligibility criteria. This will mean that additional changes could be made to this Policy should the Government make further amendments in the future.

2.2 Ex-Members of the Armed Forces and their families

- 2.2.1** It is proposed that ex-members of the Armed Forces and their family members who do not have a local connection to Cheltenham will be given the same preference as those households who do have a local connection to this area. These changes are in line with new Government regulations.
- 2.2.2** In addition, the Community and Local Government (CLG) recently published a Code of Guidance on Allocations, which recommends that additional preference be awarded to certain categories of serving and former members of the Armed Forces and Reserved Forces, along with their bereaved spouses and civil partners. In view of this, and of our commitments made to Gloucestershire's Armed Forces Covenant, it is proposed that the following changes are made to the Allocations Scheme:
- Upon discharge, members of the Armed Forces (and/or their family members) will be placed in the Gold Band for 6 months from the date of their discharge, where they have a priority need for housing (i.e. they have dependent children or are themselves vulnerable).
 - Upon discharge, members of the Armed Forces (and/or family members) who are not considered to be in priority need (i.e. they do not have dependent children and are not themselves vulnerable) will be placed in the Silver Band, with their housing application backdated to the date they received their discharge notice.

2.3 Other changes proposed by Gloucestershire Homeseeker's Management Board

- 2.3.1** A number of other changes to the Allocations Scheme were proposed by GHMB in July 2011. Approval for these changes was put on hold until the outcome of the welfare reform and the opportunities arising from the Localism Act were more fully understood, following publication of the CLG's Allocation of Accommodation Code of Guidance on 29th June 2012. (Local Housing Authorities have a statutory duty to have regard to the CLG's Code of Guidance when setting their Allocations Schemes).
- 2.3.2** The proposed changes to the Banding Matrix are summarised below. (For more details of these changes, please refer to Appendix 2 of this report).
- **Removing the 'multiple needs' criteria.** The 'Multiple needs' criteria means that households are currently able to be placed in a higher banding priority where they meet 2 or more criteria from a 'lower' needs band. Removing this facility would ensure that social housing is more readily available instead for those households with a more pressing need to move, such as those who are homeless. This is important, given the likely increase in homelessness being brought about as a result of the welfare reform.
 - **Reducing the time limited bands from 2 months to 1 month.** Some of the bands within the Banding Matrix (Appendix 2) are time limited. This means that if a household fails to bid for suitable properties within a given timeframe, the Local Authority can subsequently make a direct offer of accommodation to the household at the top of the list. Reducing this timeframe will help to ensure that households with the most pressing housing need are able to move more quickly when suitable properties become available.
 - **Changing from Emergency band to Gold band those households who are moving on from Supported Housing to Independent Accommodation.** This proposal would place these households on a more equal footing with other households with a high housing need, such as those who are statutory homeless.
 - **Households in flats with young children.** To remove, as an automatic entitlement to be placed into Silver Band, those households with a child under 10 years who live in a flat with no exclusive front door and who are living above or below the ground level. Instead, priority would be awarded to those households who have a medical or welfare need to move as a result of their accommodation being unsuitable.
 - **Priority to under-occupiers of social housing.** To award Emergency banding to those households who wish to move to other smaller non-family accommodation, and Gold banding to those wishing to move to other smaller family accommodation. This would help to facilitate a move for those families in social housing who are affected by the welfare reform.

3. Alternative options considered

The freedoms given to Local Authorities under the Localism Act to change the way they allocate their properties has allowed GHMB to give consideration to the following options, which it is proposed, should be rejected:

3.1 Excluding Bronze banded applicants from the housing list

- 3.1.1** This option was considered on the basis that such a move might reduce the amount of time spent administering applications for households with a relatively low housing need. However in practice, any time saved in closing the list to these households is likely to be lost in having to assess the same applications for ineligibility, as well as in administering appeals and potential complaints from those who have been excluded. GHMB also recognised that Bronze banded applicants still have a housing need; often because they are either struggling to afford their current home and/or because they lack security of tenure. Removing these households from the list would therefore mask the real demand for secure, affordable housing from households who, in the main, will have

neither.

3.2 Tightening the local connection criteria

3.2.1 Preference is already given to households on the list who are deemed to have a local connection to Cheltenham. GHMB's view is that local connection should continue to be defined in the same way as it is for the homelessness legislation; i.e. that it should continue to be given to those households who:

- Are employed in the district
- Have been resident for 3 years out of the last 5; or who are currently resident and who have lived in the area for at least 6 months out of the last 12; or
- Have close family members who have lived in the district for at least the last 5 years.

3.2.2 Failure to maintain this alignment with the local connection criteria as defined by the homelessness legislation could lead to an increase in the number of homeless households remaining in temporary accommodation. This is particularly undesirable at a time when the demand for temporary accommodation is set to increase as a result of the welfare reform. An increase in the use of temporary accommodation would also lead to an increase in costs incurred by the Council, in terms of increased use of Bed & Breakfast, etc. for homeless families.

3.3 Maintaining a separate 'transfer' list for existing social housing tenants

3.3.1 GHMB considered the benefits of maintaining separate lists for tenants who are looking to transfer. The potential benefit is that by maintaining a separate list, tenants may be re-housed in alternative accommodation more easily as a result of not having to compete directly with non-social housing applicants on the housing list.

3.3.2 In practice however, these households would still have to compete with other households in housing need. Local Authorities would still have to decide which list to look at for any given property, and in doing so, they would still need to have regard to those households with the greatest housing need.

3.3.3 The worst impact would be on larger homeless families, (i.e. those requiring 3 and 4 bedroom accommodation) as landlords would be under greater pressure to allocate these properties to existing transfer applicants. This would arise at a time when an increased number of larger families are becoming homeless as a result of benefit changes affecting those in the private rented sector.

3.3.4 A separate transfer list would also increase bureaucracy, and have a financial and resource (staffing) impact, given that a separate allocations system would need to be maintained, as well as a separate Allocations Scheme (as households on this transfer list would still have to be prioritised in some way).

3.4 Priority to households in work

3.4.1 GHMB rejected this in favour of continuing to focus on the more pressing requirement to allocate housing to those in housing need. Failure to focus on this would lead to an increase in the number of households on the housing list, and would reduce our effectiveness in meeting our homelessness duties. This would result in a cost not only to the individual households concerned and to communities at large, but also to the Local Authority in terms of meeting additional temporary accommodation costs.

3.5 To restrict some owner occupiers from accessing social housing unless they have a need to move on medical and/or welfare grounds

3.5.1 Officers from across the District Authorities believed that implementing this provision would be impractical because of its resource implications in terms of staff being required to verify the tenure status of all households applying for social housing. In addition, it is understood that in practice owner occupiers who apply for social housing already do so because of a medical and/or welfare need.

4. Consultation and timetable for implementation

4.1 Consultation has been undertaken with all households on the housing list and with relevant stakeholders across Gloucestershire. This includes Gloucestershire Homeseeker’s Access & Inclusion Group, (which is made up of organisations representing the needs of more vulnerable households across the county); the Voluntary and Community Sector generally, Registered Providers and Cheltenham’s Housing & Support Forum (who had involvement in shaping the some of the above proposals). Consultation ran for 12 weeks from January to 26th March 2013, with no objections or alternatives to these proposals being made.

5. Performance management –monitoring and review

5.1 The impact of any changes to the Allocations Scheme will be monitored via the Housing & Support Forum and the Access & Inclusion Group, with operational issues being fed into the Gloucestershire Homeseeker’s Operational Group; and strategic issues considered by GHMB.

Report author	Contact officer: Martin Stacy, Martin.Stacy@cheltenham.gov.uk, 01242 775213
Appendices	1. Risk Assessment 2. Banding Matrix
Background information	

Risk Assessment

Appendix 1

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	Changes in housing benefit regulations will lead to tenants of working age, who are under-occupying social housing, receiving less housing benefit as a result of their under-occupation. This is likely to result in rent arrears and homelessness	Jane Griffiths	7.11.12	2	5	10	reduce	<p>1. Ensure the Allocations Scheme bedroom entitlement criteria are aligned to the Housing Benefits bedroom entitlement criteria.</p> <p>2. Ensure adequate priority is given under the Allocations Scheme to enable social housing tenants to move to more affordable (smaller) accommodation.</p> <p>3. There are a number of other measures being implemented to minimise the impact of welfare reform, but these are not directly linked to the Gloucestershire Homeseeker Review. For more information, please refer to our Housing & Homelessness Strategy 2012-17.</p>	April 2013	Martin Stacy	

Explanatory notes											
Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)											
Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)											
Control - Either: Reduce / Accept / Transfer to 3 rd party / Close											

<p>EMERGENCY BAND</p>	<p>Property Size etc</p> <p>Giving up family sized social rented housing in the County to move to smaller non-family accommodation</p> <p>WAS: Giving up family sized social rented housing in the County to move to considerably smaller or non-family accommodation.</p>	<p>Property conditions (this only applies to the district where the Notice is made)</p> <p>Where a property has been assessed by Environmental Services as causing an imminent risk of serious harm due to disrepair, major defects, inadequate facilities. e.g. Emergency Prohibition Notice served (Time limit 1 month)</p> <p>CHANGE TIME LIMIT - WAS: (Time limit 2 months)</p>	<p>Homelessness (this only applies to the district where any duty is owed) WAS: (This only applies to the district in which a homeless application is made)</p> <p>WAS: Where the homelessness duty criteria applies, plus one or more criteria in the gold band. (Time limit 2 months)</p>	<p>Medical/welfare needs</p> <p>WAS: Medical/Disability</p> <p>Assessed as immediate need of rehousing on medical grounds OR Exceptional circumstances where there is a proven threat to life or limb OR Exceptional circumstances where the current property has a critical detrimental effect on their welfare (Time limit 1 month)</p> <p>WAS: Assessed as immediate need for rehousing on medical grounds. (Time limit 2 months)</p>	<p>THIS COLUMN HAS BEEN REMOVED ENTIRELY.</p> <p>WAS: Multiple Needs</p> <p>WAS: Exceptional circumstances where there is a proven threat to life or limb or three or more persons with multiple needs where their current property has a significant detrimental effect on their social or medical well-being. (Time limit 2 months).</p>	<p>Move-On</p> <p>WAS: Move-on from supported accommodation and/or where a multi agency planned move is agreed by the relevant local authority and there is continuing relevant support in place. (Time limit 2 months)</p>	<p>Multiple criteria</p> <p>Two or more criteria in Gold band (Time limit 1 month)</p> <p>CHANGE TIME LIMIT - WAS: (Time limit 2 months)</p>
<p>GOLD BAND</p>	<p>Giving up family sized social rented housing in the County to move to considerably smaller family sized accommodation OR Major overcrowding – lacking 2 or more bedrooms OR Where a Prohibition Notice (or Suspended Prohibition Notice) has been served by Environmental Services due to overcrowding (Does not apply if already awarded gold for Homelessness)</p> <p>WAS: Major overcrowding (lacking two bed spaces)</p>	<p>Where a Prohibition Notice (or Suspended Prohibition Notice) has been served on a property by Environmental Services due to disrepair, major defects or inadequate facilities and the landlord is unable/unwilling to comply</p> <p>WAS: Where a Prohibition Notice (or Suspended Prohibition Notice) has been served on a property by Environmental Services due to disrepair, major defects infestation, or inadequate facilities.</p>	<p>Full Statutory Homelessness Duty accepted (Time limit 1 month)</p> <p>WAS: A Statutory duty to re-house as Statutory Homeless or threatened with homelessness. (Time limit 2 months)</p>	<p>Assessed urgent medical/welfare need or long-term disability that would be alleviated by a move to more suitable accommodation</p> <p>WAS: Assessed urgent medical need or long term disability which would be alleviated by a move to more suitable accommodation.</p>	<p>WAS: Two persons in the households where their current property has a detrimental effect on their social well-being or moderate medical need.</p>	<p>Move-on from Supported Accommodation where a planned move is agreed by the relevant local housing authority OR As a result of a multi-agency decision agreed by the relevant local housing authority OR Left in occupation of social rented housing such as Succession where the household is required to move (Time limit 1 month)</p> <p>WAS: Left in occupation of social rented housing or succession where the household is required to move (Time limit 2 months)</p>	<p>Two or more criteria in Silver Band</p>
<p>SILVER BAND</p>	<p>Overcrowding – lacking one bedroom (Does not apply if already awarded silver for Homelessness)</p> <p>WAS: Overcrowding (lacking one bed space).</p>	<p>Homeless or threatened with homelessness.</p> <p>WAS: Non priority need homeless. Priority need but intentionally homeless. Household threatened with homelessness within the local district, with no resources to solve own housing need, and has accepted a prevention solution, but remains in a non secure tenancy.</p>	<p>Assessed significant medical or welfare need or disability that would be alleviated by a move to more suitable accommodation.</p> <p>WAS: Assessed moderate medical need or disability which would be alleviated by a move to more suitable accommodation.</p>	<p>WAS: One person in the household where their current property, or lack of facilities, has a detrimental effect on their social well-being.</p>	<p>Move-on from Supported Accommodation where a planned move is agreed by the relevant local housing authority OR As a result of a multi-agency decision agreed by the relevant local housing authority OR Left in occupation of social rented housing such as Succession where the household is required to move (Time limit 1 month)</p> <p>WAS: Child under 10 years in a flat with no exclusive front door and living above or below ground level.</p>	<p>Two or more criteria in Gold band (Time limit 1 month)</p>	
<p>BRONZE BAND</p>	<p>ALL OTHER APPLICANTS</p>						

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Cheltenham Borough Council

Cabinet

16 April 2013

3rd Sector Application for Retail Premises at 39 Grosvenor Street

Accountable member	Cabinet Member for Finance, Councillor John Rawson
Accountable officer	David Roberts (Head of Property and Asset Management)
Ward(s) affected	All Saints
Key Decision	No
Executive summary	The Council received a request from Cheltenham Open Door that consideration be given to agreeing a rent subsidy for its project at 39 Grosvenor Street. The project satisfies 3 of the Council's Key Objectives and that, as a result, a rent subsidy is proposed.
Recommendations	1. It is recommended that Cabinet agrees to accept the recommendation of the 3rd Sector Panel and authorise the Director of Resources to administer a rent reduction of 80% against the new rent of £7,500pa associated with a new lease to be granted to Cheltenham Open Door by Cheltenham Borough Council, and to consider a further discretionary allowance of 20% upon the rent as recommended by the Assessment Panel.

Financial implications	At a time when the council is faced with significant budgetary pressures, the approval of a new subsidy represents a reduction in income of £6,400. This will have to offset by other income sources to prevent a budget reduction being required. Contact officer: Nina Philippidis nina.philippidis@cheltenham.gov.uk, 01242 775221
Legal implications	None arising from the report Contact officer: Rose Gemmell Rose.gemmell@tewkesbury.gov.uk, 01684 272014
Key risks	If Cabinet does not approve the rent subsidy, it is extremely likely that the charity will be unable to continue its important function of assisting homeless and needy people within the Borough.
Corporate and community plan Implications	Cheltenham Open Door provides significant support to vulnerable people and is a stakeholder within the Council's homelessness strategy
Environmental and climate change implications	None

1. Background

- 1.1 Cheltenham Open Door is a registered charity #1063434 (hereinafter referred to as Open Door) which entered into a lease with the Council for a term of 15 years from 1998 at an initial rent of £6,500pa for shop premises known as 39 Grosvenor Street, a location plan is attached to this report at Appendix III. The rent currently passing is £8,000pa
- 1.2 Open Door seeks to provide support to members of the community who are marginalised, vulnerable, disadvantaged and suffering social and emotional stress. The property in Grosvenor Street provides a focus point from which hospitality, food, warmth are offered. Access to support workers is also provided as well as advice and routes to other specialised agencies.
- 1.3 Open Door is a voluntary organisation and a registered charity purely supported by donations and grants.
- 1.4 Currently the Council supports Open Door by way of an annual rent grant of £8,000. In 2011 the Council's policy towards the distribution of rent grants was amended to assess charitable and other 'not for profit' institutions contribution to the Council's key objectives, and to allocate funds dependent upon the fulfilment of these criteria.
- 1.5 The current lease is due for renewal and in line with the Council's 3rd Sector Policy, Open Door has made an application for rent relief and a copy of the application is included within Appendix II.
- 1.6 The Market Rent of the premises is currently considered to be £7,500pa
- 1.7 A meeting of the 3rd Sector Policy board considered the application from Open Door for rent relief on the lease of 39 Grosvenor Street and concluded that a relief of 60% should be applied in this case and an additional subsidy of 20% applicable to charitable institutions renting Council-owned premises, was appropriate. Further the Assessment Panel has suggested that Cabinet consider a discretionary allowance of a further 20% be given in this case. A copy of the Panel's decision is attached as Appendix II.

2. Reasons for recommendations

- 2.1 The 3rd Sector Policy Board considered the application from Cheltenham Open Door and concluded that the following subsidies could be applied:
 - 20% subsidy in respect of Cheltenham Open Door contribution to the Council's Objective 1 'Enhancing and Protecting our Environment'
 - 20% subsidy in respect of Cheltenham Open Door contribution to the Council's Objective 3 'Strengthening Our Communities'
 - 20% subsidy in respect of Cheltenham Open Door contribution to the Council's Objective 5 'A Focus on Children and Young People'
 - 20% subsidy reflecting Cheltenham Open Door is a registered charity.

3. Alternative options considered

- 3.1 Cabinet could consider turning down the application made by Open Door but this would result in either scaling back, or more likely, closure of the operation at 39 Grosvenor Street, resulting in the loss of a valuable charitable service and leave a further retail premises vacant.

4. Consultation and feedback

4.1 Ward Councillors have been advised of this proposal and positive feedback has been received.

5. Performance management –monitoring and review

Report author	Contact officer: chris.finch@cheltenham.gov.uk 01242 775148
Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Decision of 3rd Sector Assessment Panel. 3. Location Plan
Background information	<ol style="list-style-type: none"> 1. Open Door Budget 2013 2. Appendix 1 of submission (list of Trustees) 3. Appendix 2 of submission (Memorandum of Association)

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1	If the application is supported then the Council will see a reduction in it's rent line of at least £6,400pa.	DLR		5	6	30	Accept	Report to Cabinet		CF	
2	If the application for subsidy is not supported then the Cheltenham Open Door is likely to cease to operate resulting in the loss of a community support facility for vulnerable people and a follow-on risk to the Council's reputation and another empty shop in the town centre.	DLR		5	6	30	Accept	Report to Cabinet		CF	

Application for rent discount under the council's property lettings and disposals to the third sector, voluntary and community groups' policy

Assessment carried out on Friday 21st December 2012 by:

- Des Knight – Finance
- Richard Gibson – Strategy and Engagement
- Helen Down - Strategy and Engagement

Name of Organisation:	CHELTENHAM OPEN DOOR
Registered Charity?	registered charity No 1063434
Does the organisation have a paying membership?	No
Name /address of property	39 GROSVENOR STREET
Current rent	£8,000 pa, covered by matching grant; therefore no rent is paid by the charity.
Reason for application	Cheltenham Open Door have a fifteen year lease dated 1st February 1998. It expires on 31st January 2013

Based on their Business Plan, what contribution does this organisation make to the Council's Corporate Strategy and/or Cheltenham's Sustainable Community Strategy?	Which objectives does the Organisation significantly contribute towards? (Tick and give reasons where appropriate)	Does the business plan show how these activities are sustainable? Yes	% subsidy awarded
Objective 1: Enhancing & protecting our environment (includes investing in environmental quality, investing in travel and transport and promoting sustainable living)	Yes – the panel felt that the work of Open Door in collecting and recycling surplus products from the food industry minimises waste and makes a strong contribution to this objective.	Future financial projections indicate that the charity might not be financially sustainable in 2 years time.	20%
Objective 2: Strengthening our economy	No – the panel were not convinced that Open Door makes a significant contribute to this objective.	N/A	0
Objective 3: Strengthening our communities (includes promoting community safety, promoting housing choice, building healthier communities and supporting older people)	Yes – the panel agreed that the work of Open Door makes a strong contribution to this objective; their work in supporting vulnerable people through providing 10,000 free meals, emergency food packs, free clothing and drop-in and advice sessions is extremely valuable to creating stronger communities.	Future financial projections indicate that the charity might not be financially sustainable in 2 years time.	20%
Objective 4: Enhancing the provision of arts and culture	No – the panel were not convinced that Open Door makes a significant contribute to this objective.	N/A	0
Objective 5: A focus on children and young people i.e. where One or all of the following outcomes for children and young people are	Yes – the panel agreed that the work of Open Door makes a strong contribution to this objective; they help young people in times of	Future financial projections indicate that the charity might not be financially sustainable in 2 years time.	20%

met: -Be healthy -Stay safe -Enjoy & Achieve -Making a positive contribution - Achieving economic well-being	hardship, poverty and social and emotional distress, plus they undertake valuable education work in local schools helping local schoolchildren become more aware of the needs of others.		
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As agreed by the Cabinet in July 2010, a further 20% discount is available to any charity renting council property = 80% in total

State Aid avoidance checklist:	
Is the proposed tenant a not for profit organisation?	Yes
Is the use of the building for a community purpose?	Yes
Are the activities carried out by the organisation of local interest only?	Yes

Recommendation:

That Cheltenham Open Door, be awarded a minimum of 80% rental discount on the property at 39 Grosvenor Street.

Cabinet should be aware however of the financial vulnerability of the organisation; in 2012, they made an operational loss of £15,700 and are projected to make a loss of £17,000 in 2013.

Although the charity does have reserves; the core expenditure reserve represents a little under one year's worth of core expenditure assuming that they receive a 100% rebate on the rent at Grosvenor Street. The designated reserve will be exhausted in a further 2 years at this level of expenditure.

In these circumstances, and with future demand for its services likely to grow, Cabinet may wish to consider awarding a further 20% discretionary discount bringing the full discount to 100%.

CHELTENHAM OPEN DOOR, registered charity No 1063434

SUBMISSION ON RENT AT 39 GROSVENOR STREET

INTRODUCTION

This is our response to the requirements of Cheltenham Borough Council as set out in the *Report of the Cabinet Member 'Built Environment'*, on rents to the Voluntary Sector. We are Council tenants at 39 Grosvenor Street, under a fifteen year lease dated 1st February 1998. It expires on 31st January 2013, at which stage we have been advised we become statutory tenants.

Over those fifteen years, as provided by the lease, which puts upon us as tenants full responsibility for all required repairs and maintenance, the rent was duly reviewed every five years, and now stands at £8,000 pa. At the same time every year, the Council, no doubt in recognition of the benefit our charity's activity brought to the people of the Borough, granted annually a sum equal to that rent due, so that no money passed. Having carefully examined the report of the Council's new policy for rents in the voluntary sector, we believe we satisfy the criteria for discounts, as we explain below.

We begin by describing the main features of the charity, and then go on to a systematic response to what the new policy is asking for.

DESCRIPTION OF CHELTENHAM OPEN DOOR

History

The Charity dates from August 1992, when a committee was formed to plan a Cheltenham Christmas shelter that year called *Open Door at Christmas*, the venue being the large white building on Grosvenor Street's west side, belonging to the County Council's Youth and Community Service. A leaflet was circulated appealing for funds and volunteer helpers, patrons came forward to give their support, and the 1992 shelter over some three days was a success. Finding that the venue had another available slot first thing on Sunday mornings, we offered hot breakfasts, second hand clothes and a shower. It was the regular pattern, hot breakfasts every Sunday and a Christmas shelter every year.

We approached the Charity Commission and created a Trust Deed based on their model text to become a registered charity. But in 1997, the GCC Youth and Community Service had new plans for their Grosvenor Street building and told the various users to go elsewhere. We tried a church hall in Suffolk Square but it turned out unsuitable and rather expensive. Two things came to the rescue. The Vicar of St Luke's kindly offered their splendid Hall for Christmas shelters and the Borough Council wanted a tenant for no 39 Grosvenor Street. To protect trustees (who became also directors of the new company) from undue liabilities, we became a charitable company registered by guarantee. Working from one of the Commission's models we wrote a Memorandum and Articles, changed our name to *Cheltenham Open Door* and received a new charity registration number. We were incorporated on 31st May 1997. An architect was appointed to lead the work of converting the premises (just a bare workshop) to our purposes – fire precautions, toilets, showers, central heating, a kitchen and not least planning permission. The final cost came to £35,000, met by the generosity of several charitable trusts. More recently, as we are responsible for all repairs and maintenance, we have with support again from external generosity we have further improved the building, with new windows, a new forecourt, repairs to the party wall,

a new boiler, some £7k repairs to the south gable end, a security system and essential small items of maintenance. Not a penny of this expenditure has fallen on the Council.

The lease negotiations went ahead meanwhile, and the Council helpfully allowed us access for preparatory work. We resumed our hot breakfasts on the first Sunday in January 1998, with Monday lunches added later that month, Wednesdays in March, and Thursdays in September. To fit in with the King's Table at Holy Trinity in Portland Street, who offer a similar service on Mondays and Fridays, we shifted to Tuesdays. Between us we cater for six days out of seven.

Activities

All the year round we are open at 39 Grosvenor Street on Tuesdays, Wednesdays and Thursdays, from 10.30 am to 1.15 pm, continuous self-served tea, coffee, toast – and a hot meal at 12 o'clock. On Sundays it is from 9.45 am to 11.45 am for a cooked breakfast and a packed lunch to take away. A marked increase recently is put down to current economic conditions. We find ourselves serving well over 10,000 free meals a year. The dining area is packed, often we have long queues. We offer also showers (with towels and soap) and the popular clothes centre of donated slightly worn clothes, except for underwear (and toiletries) which are bought new. We wash their clothes in our washing machine if asked and dry them.

At the heart of it all, however our primary objective is to make available a friendly warm and safe place – with the meals, showers, clothes and so on, important as they are, being in a sense an accompaniment. We have a leisure room on the first floor where guests can sit and chat, watch television, enjoy tea, coffee and biscuits, and relax. We can also set up visits from healthcare professionals in an informal setting and offer advice if requested – mostly if the guest agrees via referral to an appropriate specialist agency; we are in touch with a good many. There is growing trust as guests increasingly bring problems to our more experienced volunteers.

Similar facilities are offered at our Christmas shelter, which we continue to run every year, now at St Luke's Church Hall, Cheltenham. It is open 24 hours from midday on Christmas Eve until after lunch 27th December (doors are closed at 10.30 pm). Additionally available are a bed for the night if required, chiropody, hairdressing and a present for every guest. It attracts scores of extra volunteers.

Organisation

See the lists of people in **Appendix I**. Except where indicated none receive any remuneration. The Charity does not have members or subscriptions in the conventional sense.

Patrons are senior people in the community in Cheltenham with an interest in what we are doing. They are a tacit reassurance to the public that our charity is acting with commitment and integrity.

The Trustees are responsible for managing the Charity on sound principles.

The Associates bring extra expertise, attend meetings but do not vote (on the rare occasions when that may arise), and carry no formal liability. Among them are two salaried staff, the day to day manager at no 39 and his back-up, who also runs all publicity.

Finally and most important our backbone are the Volunteers, too numerous to list, who give their time free on weekdays or Sunday morning, and in greater numbers over Christmas, not

just to do the chores but also to socialise with guests. We sense that for quite a few of them, coming to us serves as an escape from cares or from loneliness, especially at Christmas,

Our Guests

Our formal objects agreed with the Charity Commission are *in Cheltenham the relief of poverty, hardship and distress among persons, married or unmarried, and not living in a family, being persons of a rootless way of life who are suffering social or emotional distress*. Those are our guests (we have always called them so as more dignified than ‘clients’). We practice no discrimination whatsoever and never ask any questions unless someone initiates a private conversation.

In practice we find that those who come include those who read and write with difficulty, are from broken homes, were in care as children, have recently been released from prison and need help to re-enter the community, have lost their jobs and cannot work again, have mental health issues, are in programmes to get off alcohol or drugs, or are among the hidden homeless in a temporary hostel or on a friend’s floor or even sleeping rough.

Rules of behaviour, based on regular police advice are rigorously enforced, drink or drugs are forbidden and anyone found with them is asked to leave.

OUR FORMAL SUBMISSION

We satisfy the conditions of not being for profit, of using the premises for a community purpose, and of functioning only in Cheltenham.

1.5.2 Legal

Our Memorandum and Articles are in Appendix II. We see no difficulty in agreeing a new lease on similar lines to the current one that expires on 31st January 2013, in which responsibility both for repair and maintenance and for insurance falls to us as tenants.

“Appendix C” of Council’s Report.

We feel our responses taken as a whole show that we meet the three key community objectives of the Council’s Strategy 2010-2015, namely enhancing and protecting our environment, strengthening our economy, and that of our communities. We emphasise that we are a registered charity with no paying members as such. We take up each of the ‘Objectives’ listed in the Council’s report. .

Specific objectives

- 1. Enhancing and Protecting our Environment.** *How, if at all, does your organisation significantly contribute towards meeting this objective? Your activities may include investing in environmental quality, investing in travel and transport, and/or promoting sustainable living.*
 - We promote sustainable living by belonging to the organisation FareShare – who collect surplus "fit for purpose" products from the food industry to relieve food poverty (we provide over 10,000 free meals a year to needy and vulnerable people), which minimises waste food going to landfill. FareShare say their food redistribution helped businesses reduced CO₂ emissions by 1,800 tonnes in 2010/11.

- We collect and redistribute free of charge to the needy both second-hand clothing and items of household furniture.
- We recycle wherever possible – especially food containers and textiles.

2. Strengthening our economy. *How does your organisation strengthen our local economy?*

- We provide local employment by going only to Cheltenham professional firms for advice (architect, solicitors, accountants, etc.) and local businesses for repairs and maintenance (to vehicle, boiler, builders etc).
- We source consumable and other products locally wherever possible.

3. Strengthening Communities. *Your activities may support this through a variety of mechanisms, such as promoting housing choice, building healthier communities, supporting older people, etc.*

We support disadvantaged, vulnerable people and help to build a healthier community by:-

- Serving over 10,000 free nutritious meals a year which encourages better health and mental well being.
- Providing emergency free food packs when people are in a crisis (like waiting for benefits). We also work with the local food banks.
- Providing free clothing which is particularly important in cold weather to enable people living without heating or sleeping rough to keep well, and by washing and drying their clothes if necessary, along with free showers with towels and toiletries.
- Offering a free drop-in centre at 39 Grosvenor Street four days a week, all year round, open to all, which has a distinct social benefit for people who would otherwise be lonely and isolated, and a free four-day Christmas Shelter, open to all, where people can get free clothes, meals, hairdressing, chiropody, and even a bed for the night, which allied to the major input of our volunteers helps them feel part of a caring community.
- Having available help and support to those in need by introducing them at our centre to local expert agencies; for example Citizens Advice Bureau held a workshop at our centre on Money Management to help people manage their life within the community; an outreach worker from the Independence Trust visits two days a week to meet guests and offer alcohol and drug counselling; and a housing support worker has held surgeries on accommodation agencies informally at our centre.

4. Enhancing the provision of arts and culture. *How does your organisation contribute to the provision of arts and culture and to supporting local people in accessing arts and cultural activities?*

We have provided free educational opportunities:-

- We take our guests on an annual free outing to a place of interest (Cotswold Wildlife Park, Bristol Zoological Gardens) to broaden their horizons and as a respite from their daily cares.
- We have made available to guests free classes in arts and crafts, including drawing, printmaking and creative crafts. Some of the subjects for art classes were the animals seen on our annual outing.
- We have also offered guests a free course of cookery classes, teaching them how to make nutritious meals and enabling them to produce a meal to take away with them.

5. A focus on improving the life chances of children and young people. *Please identify how your organisation significantly contributes to meeting the outcomes for children and young people, as identified in Every Child Matters.*

Our help for young people over 16 can be divided between young guests and young volunteers, another important sector being within the schools themselves.

- We help young guests in times of hardship, poverty and social and emotional distress with meals, clothing, friendly support and introductions to relevant agencies, all free of charge.
- After acquiring self-confidence and enjoying better health, some of them have returned to employment and a stable life style.
- Improving the health and well-being of adults (objective 3 above) spills over onto the young people they may be responsible for.
- We offer young people, including sixth-form students, volunteering opportunities at our Christmas Shelter and throughout the year. They value these as a way to broaden their experience and make a contribution to the community in which they live. Some have said that they continue to volunteer in the same sector later in life as a result of the experience they have had with us.
- We help school age children in both the primary and secondary sectors (5-18yrs) to make a positive contribution through becoming aware of the charity and its aims, through talks/visits to their schools, telling them about the needs of others.
- They know that much of the food they bring into school at Harvest Festival time is passed on as a donation to Open Door.
- Letters and drawings they send to our guests bring great enjoyment and comfort to some very lonely people.
- Some primary schools have become involved in a Cookery Project – they bake and send cakes and biscuits to the guests of Open Door.
- School kitchens have also signed up to send some meals to Open Door.
- Through their involvement with Open Door, school age children are making a positive contribution and showing support for people in their community.
- That way they engage in positive behaviour, contributing to the well being of others , and they themselves achieve a sense of well being

6. Financial and Business Management. *Please use this section to show how financially sustainable your current activities are, and to supplement this on a separate sheet with a Financial Statement for the last financial year along with a projected Financial Statement for the following year.*

We have taken careful account of the Council's stern statement of the financial implications at **1.5.1**, to wit that *it faced significant budgetary challenges in continuing to support the current range of services. The financial implications of any revised or additional support to third sector [the voluntary sector] or community organisations need to be considered carefully in the light of the council's corporate priorities and the medium term financial strategy.*

We have always been very conscious of how much we depend on the generosity of the people of Cheltenham, both individually and through their societies and organisations. To date we have always had enough donations to keep us going and last year these amounted to £35,945, as shown in our Report and Accounts for the year to 31st May 2012, (**Appendix III**). Advice from the Charities Aid Foundation and others is that charitable giving as a whole has been falling considerably, reflecting today's tough economic conditions, and we are seeing signs of it affecting us. So in our projections, we are estimating a 20% fall in donations for the current

financial year. To try to ensure we make this reduced figure, we are actively seeking to broaden the ways that people can donate to us, for example by promoting the use of standing orders and on-line giving. At the same time we are constantly looking to keep costs down by maximising our use of donations in kind and constantly seeking cheaper suppliers.

Our reserves at 31st May 2012 of £64,548 include £15,649 remaining from a generous bequest some years ago made by a deceased volunteer. This sum has been designated by the Trustees to be applied to capital works and major repairs on property and on new projects within the charitable objectives, particularly with regard to enhancing the welfare of beneficiaries, our guests. This is the fund that has allowed us to extend our work as described above, especially in connection with 'Objective 4'. The balance of £48,899 is available for core expenditure.

The projected figures at 31st May 2013 (**details I Appendix IV**) show total reserves of £47,523, reflecting the reserve for core expenditure reducing to £37,254 and the special project reserve reducing to £10,269. The core expenditure reserve represents a little under one year's worth of core expenditure assuming that we receive a 100% rebate on the rent at Grosvenor Street. The designated reserve will be exhausted in a further 2 years at this level of expenditure..

This concludes our submission. We see our work as essential and are determined to continue it in every possible way.

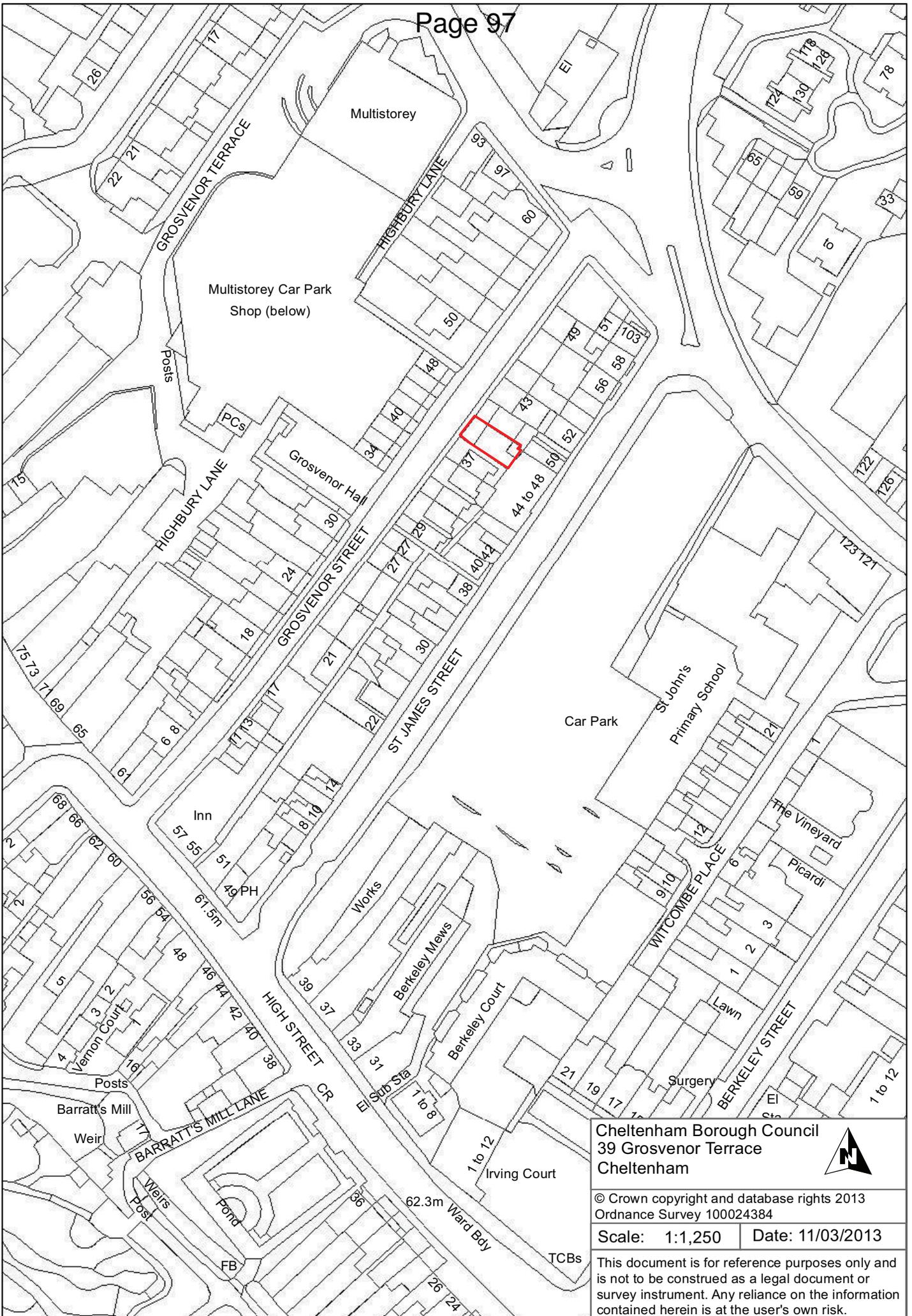
Attached,

APPENDICES

I Lists of People

II The Company's Memorandum and Articles

III 2011/2012 Annual report and Accounts (*separate cover*)



Cheltenham Borough Council
 39 Grosvenor Terrace
 Cheltenham

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Scale: 1:1,250 Date: 11/03/2013

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Cheltenham Borough Council

Cabinet

16 April 2013

Request for Leasehold Disposal of Open Space at Cox's Meadow, Old Bath Road.

Accountable member	Cabinet Member for Finance Councillor John Rawson
Accountable officer	David Roberts (Head of Asset and Property Management)
Ward(s) affected	Charlton Park
Key Decision	No
Executive summary	<p>Since July 2012 the council, through an external agent, has marketed the leasehold interest in the former public conveniences at Cox's Meadow, Old Bath Road, Cheltenham, for uses other than residential or take-away. An offer has now been received to lease the land and building as a shop (outlined in red upon the plan which accompanies this report) for a term 125 years. The land is considered to be Open Space and is therefore must be advertised in accordance with S123(2A) Local Government Act 1972.</p>
Recommendations	<ol style="list-style-type: none"> 1. That Cabinet agrees to declare surplus the parcel of open space land outlined in red on the attached plan (attached as Appendix A) being the former public convenience building at Cox's Meadow, Old Bath Road, Cheltenham and to authorise the placing of a Public Notice pursuant of Section 123(2A) of the Local Government Act 1972 in respect of the leasehold disposal of the said parcel of open space land 2. That any objections and representations which might be received in response to the advertisement be considered by Cabinet before making a final decision concerning disposal of the land. 3. That should no objections or representations be received in response to the advertisement, that Cabinet declare the land surplus and the matter is delegated to the Head of Property and Asset Management to finalise and complete an appropriate lease.
Financial implications	<p>Any new lease should be entered into on commercial terms allowing a reasonable financial return to the council whilst ensuring the council is not financially liable for ongoing maintenance of the land.</p> <p>Contact officer: Nina Philippidis, Accountant nina.philippidis@cheltenham.gov.uk, 01242 775221</p>

Legal implications	<p>Prior advertisement and consideration of objections is a statutory obligation when contemplating the possible disposal of land which is designated as Public Open Space. As the building was constructed within the open space it is considered that the building forms part of it for the purposes of the obligation to advertise described in the Executive Summary.</p> <p>Contact officer: Rose Gemmell, Rose.gemmell@teWKesbury.gov.uk, 01684 272014</p>
Key risks	None
Corporate and community plan Implications	None
Environmental and climate change implications	

1. Background

- 1.1 A decision was made by Cabinet in February 2011 (as part of the 'Bridging the Gap' initiatives outlined in the General Fund Budget Proposals), to close a number of public conveniences in Cheltenham.
- 1.2 Subsequent to that decision the public conveniences at Cox's Meadow, Old Bath Road has remained closed and unused.
- 1.3 An Option Appraisal was undertaken to examine alternative uses for the premises and presented to the Asset Management Working Group in June 2012. At that meeting it was agreed that, given the location of the building, the premises should be marketed for leasehold disposal for a variety of uses but excluding any form of residential or take-away use. The applicant intends to convert the building into a retail premises with a proposed use as a Florist or other retail opportunity.
- 1.4 The premises were marketed by an external commercial agent until an offer which fulfilled the council's expectation was received.
- 1.5 So that the council can proceed to finalise a lease of the land and building for 125 years it is first required, by virtue of S123(2A) of the Local Government Act 1972, that the proposed disposal is advertised in a local newspaper and for the Council to consider any representations made, thereafter.

2. Reasons for recommendations

- 2.1 Advertising the leasehold disposal of Open Space is a statutory obligation and will assist to inform commercial lease decisions in respect of the former public toilets at Cox's Meadow Old Bath Road

3. Alternative options considered

- 3.1 The Cabinet could decide not to agree to place the requisite public notice which would result in the building remaining closed, the Council having no operational use for it and due to the continuing maintenance liability the building could be demolished.

4. Consultation and feedback

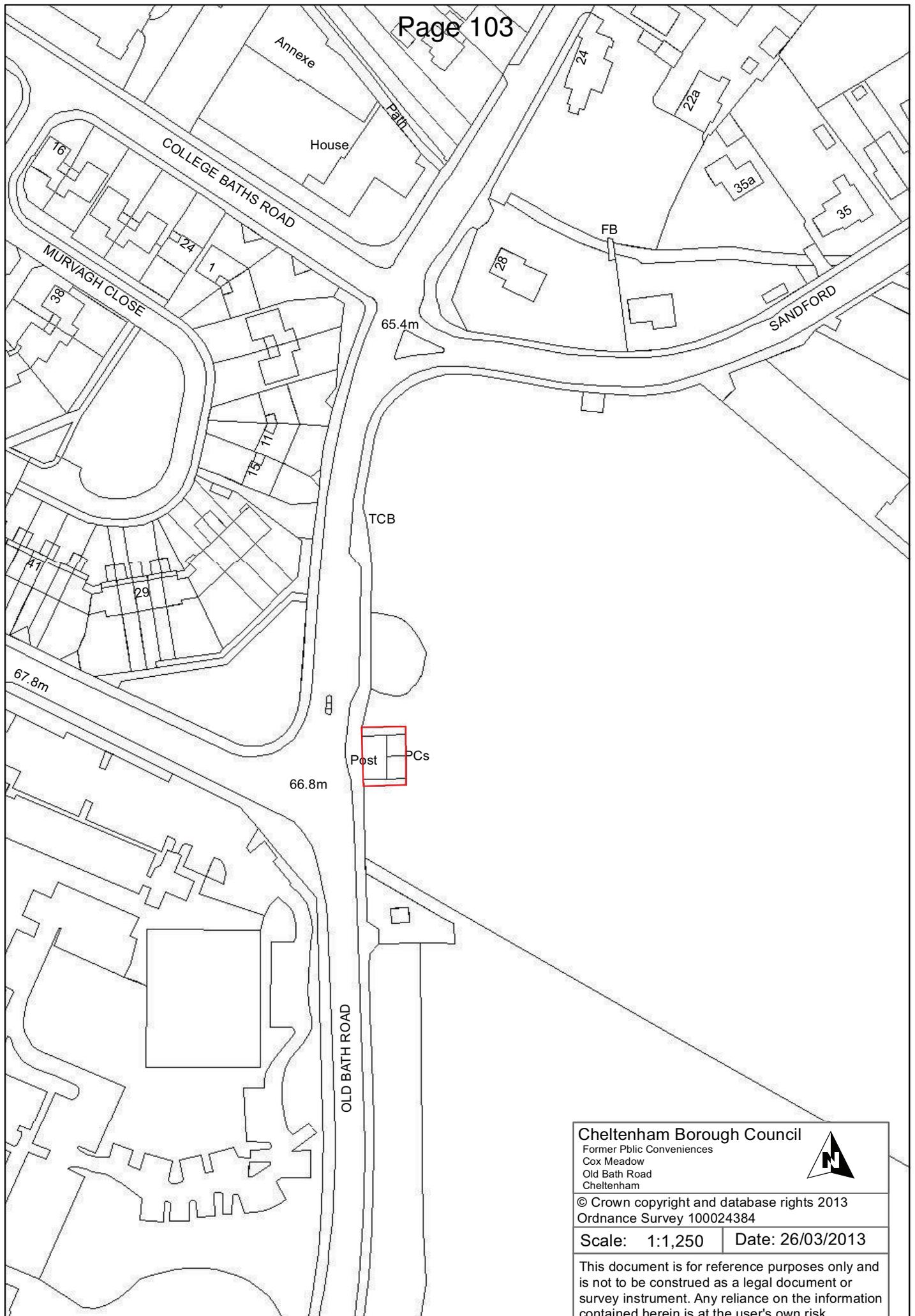
4.1 Ward members have been consulted and no adverse comments have been received.

5. Performance management –monitoring and review

5.1 Not Applicable

Report author	Contact officer: Christopher Finch chris.finch@cheltenham.gov.uk , 01242 775148
Appendices	1. Risk Assessment 2. Location Plan
Background information	1. None

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If there is a high level of public objection to the disposal notice then it may result in a decision not to dispose	CF	26 th March 2013	2	2	4	Accept	Monitor		CF	



Cheltenham Borough Council Former Public Conveniences Cox Meadow Old Bath Road Cheltenham	
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Cheltenham Borough Council

Cabinet 16 April 2013

Compulsory Purchase Resolution

8 Golden Miller Road

Accountable Member	Cabinet Member Housing and Safety, Councillor Peter Jeffries
Accountable Officer	Mark Nelson, Enforcement Manager, Built Environment
Ward(s) Affected	Swindon Village
Key Decision	No
Executive Summary	<p>8 Golden Miller Road, is a semi-detached house built in 1970. The property is privately owned but has been vacant since approximately 2003. Since becoming vacant, the property has deteriorated and complaints have been received by the council concerning lack of maintenance, lack of security, blocked drains, rats, wasps, untidy and overgrown gardens affecting neighbouring properties and a general loss of amenity to the area. All negotiations to improve the property and bring it back into residential use have failed and negotiations to purchase the property have also failed. Although compulsory purchase is seen as a last resort, it must now be considered as a means to bring the property back into residential use and allow renovation to improve its appearance and prevent further loss of amenity to the area.</p>
Recommendations	<p>Cabinet is recommended to:</p> <p>1.1 Authorise the making of a Compulsory Purchase Order ('the Order') under section 226 (1)(a) of the Town and Country Planning Act 1990 to acquire 8 Golden Miller Road, Cheltenham, as shown edged red on the attached plan (Appendix 2) (the Order Land).</p> <p>1.2 Authorise the Enforcement Manager to make any necessary minor or technical amendments to the boundaries of the Order Land.</p> <p>1.3 Authorise the Borough Solicitor to seal the Order and to take all necessary steps, including the publication of all statutory notices and defend the Council at Public Inquiry if necessary, to secure confirmation of the Order and the vesting of the Order land in the Council.</p> <p>1.4 Authorise the Enforcement Manager to continue to negotiate with the owners of interests in the Order Land to secure a purchase of the Order Land prior to confirmation of the Order</p> <p>1.5 In the event that the Secretary of State notifies the Council that it has been given power to confirm the Order, authorise the Borough Solicitor to confirm the Order.</p>

<p>Financial Implications</p>	<p>The council must have sufficient funds to meet all the expenses including legal costs and fees associated with property purchase and sale; any compensation claims associated with the acquisition of property and to meet other heads of claim as appropriate.</p> <p>Funding is available via the housing capital reserve which is earmarked to fund the Housing General Fund capital expenditure. There is currently £500k available in this reserve which will cover the costs of compulsory purchase.</p> <p>The difference between the costs and receipts of compulsory purchase can be funded out of rolled forward Private Sector Renewal funding</p> <p>Once acquired, the property will be sold on and the renovation costs covered by the purchaser.</p> <p>Bringing this property back into use may provide the Council with additional funding courtesy of the New Homes Bonus, which can provide a cash bonus when numbers of vacant properties are reduced.</p> <p>Contact officer: Paul Jones (paul.jones@cheltenham.gov.uk) 01242 775154</p>
<p>Legal Implications</p>	<p>Section 226(1)(a) of the Town and Country Planning Act 1990 enables Local Authorities to acquire any land provided the acquisition will facilitate the carrying out of development, redevelopment, or improvement on or in relation to the land being acquired and it is not certain that they will be able to acquire it by agreement.</p> <p>The acquiring authority must not, however, exercise the power unless it thinks that the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic social or environmental wellbeing of the area. The report sets out how this is to be achieved in paragraph 2, Development Proposals.</p> <p>The Council will also need to demonstrate that there is no other reasonable alternative to compulsory purchase to secure the improvement of the property and that it has the resources to fund the acquisition as set out in this Report.</p> <p>The test the Secretary of State applies in deciding whether a CPO should be confirmed is whether there is a compelling case in the public interest. The Cabinet will need to be satisfied that such a compelling case is made out for the compulsory purchase of a private property as referred to in this report i.e. improvements in economic, environmental, and/or social well being of the area.</p> <p>Whilst the human rights of the owner of the land are engaged in the compulsory purchase order process, this is considered to be a legitimate interference for the reasons set out in this report.</p> <p>Contact officer: Lisa Jones (lisa.jones@tewkesbury.co.uk) 01242 774929 or 01684 272695</p>
<p>HR Implications (including learning and organisational development)</p>	<p>None</p>

Key Risks	See Appendix 1
Corporate and Community Plan Implications	<p>The acquisition of 8 Golden Miller Road, subsequent re-sale, renovation and re-occupation contributes positively to the following corporate and community plan objectives:</p> <ol style="list-style-type: none"> 1. To enhance and protect our environment. <p>The proposed development will make use of existing housing stock to provide housing and will improve the appearance, security and local amenity.</p> <ol style="list-style-type: none"> 2. To strengthen our communities. <p>The proposed acquisition and use for residential accommodation promotes safety and security and gives people access to decent and affordable housing.</p>
Environmental and Climate Change Implications	<p>The renovation of the site to modern standards will improve the property in terms of energy efficiency and will help to increase the level of accommodation available, alleviate housing pressures and improve the environmental well being of the area.</p>

1. Background

- 1.1 8 Golden Miller Road is a semi-detached brick built house, built in 1970. The property was bought in October 1979 by the current owner and has been vacant since approximately September 2003. 8 Golden Miller Road is attached to number 10 Golden Miller Road which is currently owner occupied.
- 1.2 8 Golden Miller Road has been vacant for approximately 10 years and is having a detrimental effect on the neighbourhood due to lack of maintenance and the resulting dilapidation of the property. The neighbours have complained to the Council on many occasions since the property became vacant about the effect it is having on their properties and the general well being of the area. There are concerns that it will begin to attract further trespassers leading to vandalism and anti-social behaviour.
- 1.3 The Council have tried to encourage and offer assistance to the owner to undertake repairs and reoccupy the property since becoming aware that it was vacant, but no action has been taken to date. The property has been visited on many occasions to investigate complaints made and to ascertain whether the property was occupied or not. Many letters have also been sent by the Council but no improvements have been made or attempts made to reoccupy the property.
- 1.4 Several 'requisition for information' forms were served under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 following the lack of response from the owner, but no response was received from the owner and no action taken to rectify the complaints. Non-return of a requisition for information form is an offence under the Local Government (Miscellaneous Provisions) Act 1979. Proceedings were taken against the owner for this offence and the case was heard at the magistrate's court on 23rd November 2007. The Council's case was proven and the owner was fined.
- 1.5 Complaints to the Council continued and following further contact from the council, the owner returned a form in February 2010 which advised that he did not wish to co-operate with the

council to bring the property back into use and that it was his intention to sell the property - however there has been no evidence of this to date.

- 1.6 In 2010, the planning enforcement team at the Council served the owner with a section 215 notice under the Town and Country Planning Act 1990 to undertake works to improve the amenity of the area. The Council wrote to the owner on several occasions, however no correspondence or undertakings were received from him and the notice was not complied with. The Council brought a prosecution against the owner in 2011 and the owner was found guilty in his absence for failure to comply with the notice. The Council also carried out limited works in default.
- 1.7 The owner has been contacted on 22nd June 2011, on 8th September 2011 and on 14th March 2012, to advise that the Council wished to purchase his property and that compulsory purchase powers would be considered as a last resort. No response has been received from the owner following these letters and the Council has been unable to start negotiations with the owner.
- 1.8 The Council has made every effort to re-occupy the property and secure the improvement of the property, to the benefit of the street scene and locality generally, without resorting to compulsory purchase. Compulsory purchase is seen by the Council as a last resort and despite extensive attempts to contact and negotiate with the owner of 8 Golden Miller Road, all attempts have failed.

2. Developmental Proposals

- 2.1 Once acquired, the Council intends to sell the property on the open market and in preparation for occupation ensure that it is made secure, cleared of rubbish, maintained to ensure that it does not detrimentally affect any neighbouring properties or the amenity of the area and renovated, where necessary, to ensure that it does not contain any category 1 hazards as specified under Part 1 of the Housing Act 2004.
- 2.2 It will be a condition on sale of the property that the new purchasers carry out the works required to improve the amenity of the area, make the property safe to live in and ensure that the property is re-occupied as soon as possible to prevent further deterioration.
- 2.3 We do not foresee any problems with finding a purchaser as interest has already been expressed in purchasing the property.

3. Human Rights Issues

- 3.1 Circular 06/2004 "Compulsory Purchase and the Crichel Down Rules" states that a compulsory purchase order should only be made where there is a compelling case in the public interest. The council must be sure that the purposes for which it is making the order sufficiently justify interfering with the human rights of those with an interest in the land affected.
- 3.2 In deciding to take compulsory purchase action, regard has to be had to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of dwellings, Article 8 of the Convention. The Council has to weigh the human rights interest of public need as against private property rights and to consider that sufficient justification exists for the making of the compulsory purchase order. By authorising this Order the council is therefore of the opinion that a compelling case exists in the public interest.
- 3.3 In relation to both Article 1 and Article 8, the property is not currently occupied by the owner and the Order will ensure the repair and reoccupation of the property. It will also promote the economic, social and environmental well being of the area; and will bring the property back into use as residential accommodation which will provide a valuable source of urgently needed

accommodation. Furthermore, the owner will receive the market value of the property if it is compulsorily purchased. The making of the Order is therefore considered to be both proportionate and justified in the wider public interest.

3.4 It is possible that the resolution to make a compulsory purchase order, or the making of the order itself, may lead the owner to reach a negotiated agreement with the Council and further action may then become unnecessary.

4. Reasons for Recommendations

4.1 It is recommended that this action is taken to bring back into use a unit of residential accommodation, improve substandard property and improve the social, environmental and economic well being of the area. Bringing this property back into use will help to strengthen the community and help to resolve local issues caused by the property being vacant.

5. Alternative Options Considered

5.1 The owner of the property has been encouraged to bring the property back into use and vacant property grants were offered when they were available. More recently, attempts have been made to negotiate purchase of the property from the owner, but this has failed.

5.2 A notice has been served by the Council under section 215 of the Town and Country Planning Act 1990. This, however, has not been successful in improving the amenity of the area as the owner has failed to carry out the works specified and works in default by the Council can only be a temporary measure as the property continues to deteriorate.

5.3 Compulsory purchase orders should only be used as a last resort after attempts have been made to encourage the owner to take responsibility for maintaining the property and bringing it back into use. All attempts to encourage the owner to maintain and re-occupy his property have failed.

6. Consultation and Feedback

6.1 No response has been received from the owner despite correspondence from the Council to advise that we are considering the compulsory purchase of his property.

7. Performance Management – monitoring and review

Report Author	Contact officer: Mark Nelson 01242 264165 mark.nelson@cheltenham.gov.uk
Appendices	1. Risk Assessment 2. Plan of land to be acquired
Background Information	- s215 notice served on property under Town and Country Planning Act 1990 - Housing and Homelessness Strategy 2012-2017

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Cabinet Report risk template

The risk		Original risk score (Impact x likelihood)			Managing risk						
Risk ref.	Risk description	Risk Owner	Date raised	I	L	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1	The Council does not resolve to make a Compulsory Purchase Order (CPO) or the CPO is not confirmed by the Secretary of State following an objection from the owner. Failure to acquire 8 Golden Miller Road will result in the probable continued decline of the condition of 8 Golden Miller Road causing further deterioration in the amenity of the area. This will also result in lost housing resource for Cheltenham.			4	2	8	Accept	CBC resolves to make a CPO and ensures legal procedure and government guidance are followed in respect of the CPO.		Enforcement Manager Built Environment	

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Property Plan

Scale 1:625



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Cheltenham Borough Council

Cabinet – 16 April 2013

Budget Monitoring Report 2012/13 – position as at February 2013

Accountable member	Councillor John Rawson, Cabinet Member for Finance
Accountable officer	Paul Jones, GO Shared Services Head of Finance
Accountable scrutiny committee	All
Ward(s) affected	All
Key Decision	No
Executive summary	To update Members on the council's current financial position for 2012/13 based on the monitoring exercise at the end of February 2013. The report covers the council's revenue, capital, treasury management and the housing revenue account. The report identifies any known variations to the 2012/13 revised budget and a position statement on major schemes.
Recommendations	<p>That Cabinet:</p> <ol style="list-style-type: none"> 1. Notes the contents of this report including the key projected variances to the revised 2012/13 budget and the projected total budget saving of £212,100. 2. Resolves in principle to recommend to Council, as part of the 2012/13 outturn report to Council on 24th June 2013, that this projected budget saving be used to create a provision to fund any additional expenditure relating to the new business rates retention scheme and any possible future fluctuations on business rates (paragraph 4.2). 3. Approves the write off of irrecoverable business rate debts totalling £68,587.90 (paragraph 4.3), noting that doing so does not impact adversely on the Council (paragraph 4.4).
Financial implications	<p>As detailed throughout this report.</p> <p>Contact officer: Sarah Didcote, sarah.didcote@cheltenham.gov.uk, 01242 264125</p>
Legal implications	<p>None directly arising from this report.</p> <p>Contact officer: Peter Lewis, Peter.Lewis@tewkesbury.gov.uk, 01684 272695</p>

<p>HR implications (including learning and organisational development)</p>	<p>Directors and HR Advisors have worked together to ensure vacancies are managed effectively, via the vacancy authorisation process.</p> <p>Contact officer: Julie McCarthy , julie.mccarthy@cheltenham.gov.uk, 01242 264355</p>
<p>Key risks</p>	<p>As outlined in Appendix 1.</p>
<p>Corporate and community plan Implications</p>	<p>Key elements of the budget are aimed at delivering the corporate objectives within the Corporate Business Plan.</p>
<p>Environmental and climate change implications</p>	<p>None.</p>

1. Background

- 1.1 This report provides the last monitoring position statement for the financial year 2012/13. The purpose of this report is to notify members of the anticipated outturn position for 2012/13 including any known requests for budgets to be carried forward into 2013/14. Significant variances (minimum £10,000) are highlighted in this report for consideration by members.
- 1.2 The budget monitoring report to the end of August 2012 projected an overspend for the year of £281,000. As a result of that projection, Cabinet approved a recommendation to continue a freeze on supplies and services expenditure, where possible, for the remainder of the financial year.
- 1.3 This measure enabled the council to address the potential in year budget deficit and deliver a revised balanced budget which does not require a contribution from general balances. It is pleasing to note that the anticipated outturn position will deliver a saving of £212,100 against this revised budget, equating to 1.5% of the 2012/13 net budget requirement of £14,551,000.
- 1.4 A number of savings are the result of delays or slippage in carrying out particular tasks which are still necessary and will need to be completed in the 2013/14 financial year. Where this applies, requests for carry forwards are noted in this report.

2. Net revenue position

- 2.1 The table below summarises the net impact of the variances identified on the overall 2012/13 revised budget position.

Budget variances	(Overspend) / Underspend £	para. ref:
Commissioning		
Community Development	62,700	2.4
Community Welfare Grants	108,000	2.5
Cheltenham Strategic Partnership	17,000	2.6
Democratic Services	15,000	2.7
Corporate Policy Division	24,000	2.8
Waste & Recycling (net under spend £49,000) :-		2.9
- New Green Waste schemes	75,000	2.10
- Recycling Activities	(156,000)	2.11
- Trade Waste	150,000	2.12
- Household Waste	(20,000)	2.13
Street Cleaning	24,000	2.14
Homelessness	170,000	2.15
Elections & Electoral registration	(10,000)	2.16
Legal Services	10,000	2.17
Sourcing Strategy	37,000	2.18

Project Management	64,000	2.19
Organisational & Development Work	32,000	2.20
Ubico Waste Company set up costs	45,000	2.21
Working Flexibly	17,000	2.22
Total Commissioning	664,700	
Wellbeing & Culture		
Entertainments –Town Hall	50,000	2.23
Entertainments – Pump Rooms	4,000	
Art Gallery & Museums & Tourism services	20,000	2.24
Leisure@	(27,500)	2.25
Sports & Play	(2,000)	
Wellbeing & Culture Management	(10,000)	2.26
Total Wellbeing & Culture	34,500	
Strategic Directors		
Chief Executives Management & Admin	4,400	
Cemetery and Crematorium	(70,000)	2.27
Allotments	(7,000)	
Public Protection Division	32,000	2.28
Licensing		
Pest and Pollution Control	(2,000)	
Abandoned cars	(2,000)	
Animal Welfare	(6,000)	
CCTV Cameras and Crime and Disorder	6,000	
Contaminated Land	4,000	
Air Quality	4,000	
Parks & Gardens Service	160,000	2.29
Development Task force	125,000	2.30
Total Strategic Directors	248,400	
Resources		
Internal Audit	(7,700)	
ICT Services	134,700	2.31
Customer & Support Services	42,600	2.32
Housing benefits administration	(700)	

Revenues	12,900	2.33
Discretionary rates relief	65,000	2.34
GO Shared Services, Financial Services	44,000	2.35
Treasury Management	(4,600)	
Pensions back funding	2,700	
Property Services	(6,200)	
Miscellaneous Properties	(15,300)	2.36
GO Shared Services, Human Resources	33,000	2.37
Total Resources	300,400	
Built Environment		
Cheltenham Environmental Fund	156,800	2.38
Joint Core Strategy	157,400	2.39
Housing Grants	4,400	
Building Control	14,000	2.40
Development Management	24,100	2.41
Community Alarms	11,100	2.42
Built Environment Division	49,500	2.43
Housing Standards	6,700	
Off Street car parking	(83,800)	2.44
Economic Development	32,000	2.45
Promoting Cheltenham Fund	117,200	2.46
Total Built Environment	489,400	
Sub total of net savings to Service Budgets	1,737,400	
Net (increase) / decrease in transfers from/to reserves	(242,600)	
Anticipated carry forward requests/slippage in schemes	(1,302,100)	
Net savings to Service Budgets	192,700	
Treasury Management –Interest surplus	19,400	
Net projected budget saving 2012/13	212,100	

- 2.2 The table below provides a further initial breakdown of the projected net saving against revised budget to assist Members in the analysis of where the budget savings have occurred.

	(Overspend) / Underspend £
Net saving in employee costs	92,300
Net reduction in service costs / operational expenditure	250,000
Net shortfall in income	(149,600)
Treasury Management	19,400
Net projected budget saving 2012/13	212,100

Employee costs 2012/13

- 2.3 The 2012/13 original budget included a target of £480,000 from salary savings to be made throughout the council from vacant posts arising during the year. This was achieved and built into the 2012/13 revised budgets. There is an estimated net underspend against the revised budgets of £150,000 of which £57,700 will be requested to be carried forward to be spent in 2013/14. The detail is reported at service level throughout the report.

Commissioning

2.4 Community Development

There is a projected underspend of £62,700 due to external grants received but not yet spent on the specific purpose for which they were given. This will be requested to be carried forward into 2013/14 to fund the range of grant activities they relate to, notably Children and Young People.

2.5 Community Welfare Grants

There is a projected underspend of £108,000 in welfare grants due to the timing of grants received but not spent on the specific activity for which they were given. A request will be made to carry this forward into 2013/14 to fund grant related schemes such as Youth Affairs and Community Development.

2.6 Cheltenham Strategic Partnership

There is a projected underspend in this budget of £17,000 in 2012/13, as a result of the timing of grants received but not spent on the specific activity for which they were given. A request will be made at the year end to carry forward £13,000 of this underspend to fund the IF Project and Vision 21 in 2013/14.

2.7 Democratic Services

There is a projected underspend of £15,000 in Democratic Services budgets, including £13,000 for the purchase of IT software that has not been spent in 2012/13. A request will be made to carry this forward, to be spent in 2013/14.

2.8 Corporate Policy Division

There is a projected underspend of £24,000 in the divisional budget, including an underspend of £13,000 in GIS implementation costs. A request will be made to carry forward this underspend into 2013/14, to complete this implementation.

2.9 Waste and Recycling

The total budgets for waste and recycling are projected to be underspent by £49,000. A carry forward request will be made to cover the cost of bins which have been budgeted for and ordered but not yet received, and to fund additional recycling bins which residents may request as the side waste enforcement is rolled out.

This was the first year that the budgets of the former operations division have been disaggregated across Ubico and the commissioning division. Historically the budgets were not split across the various activities so estimates were made at the start of the year across the various budget heads. It is apparent as the year has progressed that the estimated split of costs was incorrect and by aligning the budgets across the new cost centres for 2013/14 we are in a much better position to assess the true cost of operating the individual services.

The reasons for the main variances are as follows:-

2.10 Green Waste

There is a projected net underspend on green waste of £75,000. This is due to an over estimate within the budget for the charges from Ubico for the cost of this service and additional income over and above that which was budgeted.

2.11 Recycling Activities

There is a projected net overspend in recycling activities of £156,000, as follows:

There is an expected shortfall in recycling credits of £50,000. The cost of delivery of this service was previously budgeted within the overall waste collection budget. The reduction in income and recycling credits is due to the reduction in volumes at the site due to the roll out of kerbside recycling and the increased take up of the garden waste scheme.

There is an expected surplus of £34,000 in the bring scheme which was previously accounted for within the recycling service overall. There has been a slight reduction in the cost of the service and a slight increase on the projected income and recycling credits for the materials recycled.

There is an expected overspend of £140,000 in recycling collection expenditure where the take up of recycling through the kerbside collection has been greater than anticipated when it was introduced in 2011. The demands mean that the council needs to run seven vehicles as opposed to the original six which were budgeted for in 2011. In 2011/12 the cost of this additional vehicle and crew was met from underspends elsewhere on waste and recycling within the operations division. In disaggregating the cost centre budgets for 2012/13 this was not accounted for. The individual cost centre budgets for 2013/14 will be adjusted so that the true cost of the service is fully reflected.

2.12 Trade Waste

There is a projected underspend of £150,000, due to an over-estimate within the budget for the charges from Ubico. Previously the service was accounted for within the refuse collection cost centre. There has also been an increase in income (one-off) over the original budget projections, with charges in arrears fully accounted for in 2012-13. This is a timing issue and there will not be any budgetary implications in 2013/14.

2.13 Household Waste

There is a projected overspend of £20,000. The additional costs have arisen due to the need for Ubico to have additional crew members to cope with the level of side waste that is being presented. The roll out of the side waste policy will mean that the need for additional crew should reduce over time.

2.14 Street Cleaning

There is a projected underspend of £24,000 due to reduced Ubico costs in delivering this service.

2.15 Homelessness

There is a projected underspend in homelessness of £150,000 due to spending on items such as Supporting People, Mortgage Rescue Scheme, Youth Homeless Prevention, Deposit Loan Scheme and Preventing Repossessions. The spend on all these items is less than the specific government grant received for these services, so there will be a request to carry these earmarked funds forward to support homelessness related expenditure in 2013/14.

There is also a projected saving in the cost of bed and breakfast accommodation, net of government subsidy, of £20,000 for the year.

2.16 Elections

There will be an overspend on Electoral Registration of £10,000 due to additional costs of canvassers' fees and increased postal charges which will also need to be reflected in future budgets.

2.17 Legal Services

There is an estimated underspend of £10,000 in legal services due to the cost of service provision being less than the initial budget.

2.18 Sourcing Strategies

There is a projected underspend of £37,000 in this one off budget which has yet to be spent due to the timing of commissioning and sourcing reviews. A carry forward request will be made for 2013/14.

2.19 Project Management

There is a projected £64,000 underspend on this budget. During the course of the year the council managed capacity within the team by undertaking work for other councils. As the council is progressing the accommodation strategy and other civic pride initiatives, a carry forward request will be made to earmark this resource for use on these key strategic projects.

2.20 Organisation & Development Work

There is an underspend of £32,000 against the budget of £48,500 for the year. This funding was agreed by council to support the use of Achieve Breakthrough within our new partnership arrangements; for interim procurement capacity; for support for the implementation of GO; for learning and development of staff in support of commissioning, and for external advice to the Leisure and Culture review. A request will be made at the year end for the underspend to be carried forward to complete the work streams in 2013/14.

2.21 Waste Company

There is an estimated £45,000 underspend in this budget at the year end. This budget is to fund the one-off set up costs of Ubico. A request will be made to carry forward this budget to 2013/14 to fund the residual legal and financial issues associated with the set up of Ubico.

2.22 Working Flexibly

There is an estimated underspend in this budget at the year end of £17,000 which will be requested to be carried forward to be spent in 2013/14 for the further role out of citrix across the organisation.

Wellbeing & Culture

2.23 Town Hall

The Town Hall has a projected underspend of £50,000. This is due to an increase in sales for promoted events and agency tickets during the final two quarters and prudent management of budgets. Catering commission and hall hires are on target against projected budgets. A request will be made at the year end to carry forward £13,000 to cover backfilling employee costs within the Town Hall operations team, to cover known long term sickness.

2.24 Art Gallery & Museums & Tourism

There is an expected net saving of £20,000 in the Art Gallery & Museum and Tourism service, as a result of the closure of the building during the year, for redevelopment. A request will be made at the year end to transfer this underspend into the Art Gallery & Museum development reserve, to fund expenditure on the development in 2013/14.

2.25 Leisure

There is an expected net shortfall in leisure budgets of £27,500 for the year, including a shortfall of income of £29,000 for the year. Income has performed well across a number of areas namely bookings/hires, spa sales, course programmes. This however has not offset the shortfalls in membership related sales, squash, group exercise and room/lease rental income.

Reduced membership bookings in November and poor sales in the latter half of February and all of March, plus delayed lease rental for the Lakeside Suite all contribute to the shortfall projected for the year.

2.26 Wellbeing Being & Culture Management

There is an estimated overspend of £10,000 for the year as a result of a feasibility study undertaken in respect of the Town Hall venue, as part of the Leisure & Culture commissioning work.

Strategic Directors

2.27 Cemetery & Crematorium income

There is a projected shortfall in cemetery and crematorium of income of £70,000 for 2012/13. This is mainly due to a shortfall in cremation and burial numbers. Demographic statistics indicate that a decline in the mortality rate is resulting in reduced annual deaths per 1,000 population. This budget will be reviewed as part of the revised 2013/14 budgets.

2.28 Public Protection Division

There is a saving of £32,000 in divisional costs for the year, including £23,000 saving in employee costs, as a result of vacant posts that have arisen during the latter part of the financial year. This salary underspend will be requested to be carried forward at the year end, as additional resource is required to undertake work that has accumulated as a result of not being able to recruit to this vacant post in 2012/13.

2.29 Parks & Gardens Service

There is a projected net saving of £160,000 in the expenditure budget for the procurement of work from Ubico Environmental Maintenance Services. This is made up of an underspend of £155,000 in Ubico staffing costs and £32,000 in Ubico supplies and Services, offset by a corresponding overspend in Cheltenham supplies and services of £27,000. This is made up as follows:-

Ubico Employee Costs -

It is anticipated that there will be an underspend of £155,000 on Ubico employee costs in the financial year 2012/13. This is a one-off situation which materialised due to a long term seasonal climatic problem over the course of the entire financial year.

During the Spring and Summer months of 2012 there was an unprecedented amount of rainfall not only in volume but also in intensity and longevity. This resulted in a situation whereby although the grass was growing the operational position was compromised by inability to mow the grass in a safe manner to conform with Health and Safety requirements. Ground conditions were such that machinery was liable to loose grip and hence operatives could not guarantee full control of their equipment. This matter was subject to review by Overview and Scrutiny.

In a normal year Ubico would employ additional casual staff during this period to undertake mowing and edging of grassed areas and also watering of flower beds, hanging baskets and plant containers. The adverse conditions continued into the autumn and winter seasons. The vacant posts that exist within the Environmental Maintenance division of Ubico were not filled as the operational needs of the division were considerably reduced due to the continuation of the inclement weather.

Although this was a one-off situation in 2012/13 it is envisaged that the full budget will be required in 2013/14.

Other supplies and services budgets are anticipated to be underspent by £5,000.

2.30 Development Task Force

Work by the Cheltenham Development Task Force on Civic Pride will progress rapidly in 2013/14 with the sale of car parks at North Place and Portland Street imminent. As a result, the estimated £125,000 remaining funding in 2012/13 will be retained in the Civic Pride Reserve for use in future years to fund projects for the regeneration of the town.

Resources

2.31 ICT Services

There is an underspend against ICT Hardware of £97,600. This is due to a delay in the replacement of equipment during 2012/13 as a result of service resourcing issues. As ICT moves into a shared service with the Forest of Dean District Council, the council's ICT Infrastructure Strategy will begin implementation, these issues will be resolved and the replacement of ICT equipment will recommence. This funding will be transferred to reserves at the year end, to support the programme of works in 2013/14.

There is also an expected underspend on employee costs of £13,700 – it is anticipated this will be requested to be carried forward for use in 2013/14 to support the resourcing of the implementation of the shared service.

ICT Services has accrued income during 2012/13 totalling £23,400. £11,200 will be required in 2013/14 to fund video conferencing equipment and £12,200 will be used to continue to support the council's flexible working needs. A request will therefore be made for this money to be carried forward at the year end.

2.32 Customer & Support Services

It is anticipated there will be an underspend within this area of around £42,500 for the year. This has arisen across employee costs including agency staff, and supplies and services.

2.33 Revenues

An anticipated underspend of £12,900 has arisen within Revenues as a result of staff turnover and subsequent salary savings.

2.34 Discretionary Rate Relief

A one off budget of £65,000 was included in 2013/14 from grant money allocated from the High Street innovation grant. It has not been necessary to draw on this budget during 2012/13, however the budget underspend will be carried forward into 2013/14 to support any claims the council may receive.

2.35 GOSS - Financial Services

There is a projected underspend of £44,000 as a result of one-off savings from supplies & services budgets arising from the move to Agresso and a shared service. A request will be made at the year end to carry forward £25,000 of this underspend to support the continued development of Agresso Accounts Receivable and Legal Debt Recovery.

2.36 Miscellaneous Properties

Across the council's investment and operational properties, there is an anticipated overspend of £15,300. This has arisen as a result of court costs accrued following an insurance claim against the council.

2.37 Go Shared Services – Human Resources

There is a projected underspend of £33,000 in this budget. A request will be made at the year end to carry forward £30,000 of this underspend to support the implementation of Agresso HR Self Service, due to go live at Cheltenham from April 2013 (to include annual leave, expense claims, sickness absence recording).

Built Environment

2.38 Cheltenham Environmental Fund

Funding was awarded from the New Homes Bonus in 2012/13 to create a fund to support small-scale environmental works to tackle environmental issues in packages costing around £15,000 or so a time. The funding was wholly allocated in 2012/13 and although work has commenced on a number of the schemes, the £156,800 unspent budgets will be carried forward to 2013/14 to fund the remaining expenditure.

2.39 Joint Core Strategy (JCS)

This budget head has been set up for the joint sharing of costs on JCS with Gloucester City Council and Tewkesbury Borough Council. A underspend of £157,400 is expected at outturn for 2012/13. The underspend is made up of Cotswold District Council's contribution to the JCS project, totalling £49,700, and projected slippage in relation to expenditure requirements totalling £107,700. The underspend will be returned to the Joint Core Strategy Reserve, set up for this purpose for future use.

2.40 Building Control

There is a projected shortfall on income of circa £18,000. This is offset by anticipated savings in employee and supplies and services costs of £32,000, resulting in a net underspend for the year of £14,000.

2.41 Development Management

Across Development Management an estimated underspend of £24,100 is projected. Income is likely to achieve target across the planning function, and there are anticipated employee cost and supplies and services savings totalling £24,100. A request will be made to carry forward £8,000 of this underspend, to support the resourcing of the Conservation team after a backlog of work has built up following staff absences which is impacting on the planning process.

2.42 Community Alarms

There is an expected net underspend of £11,100 within this service, arising from supplies and services budgets savings.

2.43 Built Environment Division

There is a projected divisional underspend of £49,500 for the year, including £33,900 within the legal expenses budgets for Land Charges. This budget was put aside to support any claims made in respect of Land Charges. This underspend is likely to be requested as a carry forward request to support claims over future years.

2.44 Off Street Car Parking

There has continued to be a drop in car parking income over the latter end of the financial year and it is anticipated that income will be around £67,500 short of target. A renegotiation of the service charges paid for Regent Arcade Car Park has also resulted in additional cost being incurred which has contributed to an estimated net overspend on expenditure budgets of £16,300. The overall position is estimated at a deficit of £83,800.

2.45 Economic Development

There is a projected underspend on supplies and services budgets of £32,000 in respect of one off economic development work in respect of the joint core strategy. A request will be made at the year end to carry this forward, to be spent in 2013/14.

2.46 Promoting Cheltenham Fund

The Promoting Cheltenham Fund is under spent by £117,100 which will be requested to be carried forward into 2013/14. The successful grant applicants in late 2012 have a year to complete their projects and receive the grant payment.

3. Treasury Management

Icelandic Banks

- 3.1 The Council has received no further monies since the last reported position in December 2012, though further payments are due in the future. The amount outstanding with all three Icelandic Banks as at 31st March 2013 is £3.8m.

Treasury Management Activity

- 3.2 There is a predicted surplus of interest of £17,477 to report on Treasury Management for 2012/13. The General Fund (GF) is £19,405 favourable against the 2012/13 revised budget while the Housing Revenue Account (HRA) is £1,928 adverse against the revised budget.
- 3.3 The Council's borrowing costs are expected to be £2,361 lower than the revised budget as the Council's cash resources have improved in 2013, reducing the need to borrow temporary for daily cash flow purposes. The Council's average borrowing rate for 2012/13 was 3.77% on an average of £58m loans.
- 3.4 Lending interest is forecast to be favourable by £15,116. As mentioned in paragraph 3.3 cash resources have improved in 2013 which has assisted the Council in receiving more interest on its Business Call Account. For 2012/13 the Council averaged a return of 1.07% on its investments with a weighted average of £7m.
- 3.5 The Housing Revenue Account (HRA) is forecast to be adverse by £1,928 which is a result of the General Fund (GF) paying less interest to the HRA for its share of investment balances held by the Council in 2012/13.

4. Business Rates

4.1 Business Rates Retention Scheme

Details of the operation of the Business Rates Retention Scheme were set out in the "business rates retention scheme – pooling" report considered by Cabinet on 25th September 2012 and Council on 15th October 2012 and the implications were further outlined in the Council Budget report on 8th February 2013.

4.2 The details of the scheme are complex and Cabinet will be seeking Council recommendation as part of the 2012/13 outturn report on 24th June 2013, to set aside part of the 2012/13 underspend to create a provision to fund the safety net threshold for any additional expenditure relating to the new business rates retention scheme and any possible future fluctuations on business rates.

4.3 Business Rates Write Off

Cabinet are being asked to approve the write off of irrecoverable business rate debts totalling £68,587.90 as shown in appendix 3. The write off of irrecoverable debt is a proper and recognised accounting practice. The Council's financial rules require that any debts written off which are not within the set authorisation limits i.e. over £5k, must be approved by Cabinet. These debts relate to companies which have ceased trading and there are no available enforcement procedures available.

4.4 The writing off of these debts does not have a financial impact on the Council as the amounts are included in the central non domestic rates pool operated by the Government in 2012/13.

5. Capital Expenditure

5.1 Possible significant variances to the 2012/13 revised capital budgets and a position statement on major capital schemes are detailed below:

5.2 Vehicle Replacement Programme

The capital budget for £250,000 for the vehicle replacement programme has not been spent in 2012/13. This will be carried forward to continue the replacement / improvement programme in 2013/14.

5.3 Art Gallery & Museum Redevelopment

Work is progressing well. The building is expected to open from early summer 2013 with a popular family exhibition. Progress on the construction can be viewed on a daily basis via the Art Gallery & Museum Development webcam on [www.cheltenham.artgallery.museum - development](http://www.cheltenham.artgallery.museum-development) pages.

The Art Gallery & Museum is still seeking support for the Development fundraising programme - with the launch shortly, of an exciting public fundraising campaign (specifically on-line) - and the Art Gallery & Museum's Development Trust and the Friends of Cheltenham Art Gallery & Museum are pro-actively organising fundraising events throughout the year. The capital budget for this scheme will be carried forward at the year end to support the remaining committed expenditure in 2013/14.

6. Programme maintenance expenditure

6.1 The majority of work planned for completion in 2012/13 remains as scheduled. However any slippage in schemes not completed in 2012/13 will be carried forward, pending completion in 2013/14. Any saving in expenditure will be transferred to the property repairs & renewals reserve at the year end to fund future programme maintenance.

7. Housing Revenue Account (HRA)

7.1 HRA income and expenditure

The HRA revised budget for 2012/13 estimated a surplus of £1,408,000 for the year resulting in a balance of £3,113,000 to be carried forward in revenue reserves at 31st March 2013.

7.2 The only significant variation identified to date is a reduction of £360,000 in the level of revenue contributions required to finance capital expenditure following variations to the works programme as detailed below.

7.3 This increases the forecast surplus for the year to £1,768,000 leading to a balance of £3,473,000 in reserve at year end.

7.4 HRA Capital Programme

Capital expenditure of the year is now forecast at £4,892,000, a reduction of £600,000 compared to the revised estimate of £5,492,000. This variation has arisen primarily from three projects as follows:-

Neighbourhood Works (budget £600,000) - delays in completion due to exceptionally adverse weather conditions, reduction of £263,000.

Replacement warden call system in sheltered housing (budget £262,500) - delayed to allow further appraisal of newly available product.

Disabled facilities grants (budget £350,000) – temporary reduction in demand leading to underspend of £83,000.

All outstanding works on the neighbourhood works and warden call projects will be completed in 2013/14.

8. Council tax and Business rates collection

8.1 The monitoring report for the collection of council tax and business rates (NNDR) income is shown in Appendix 2. This shows the position at the end of February 2013 and the projected outturn for 2012/13.

Conclusion

8.2 The net effect on the general fund of the variances reported above is that there may be a net saving against the revised budget of £212,100 for 2012/13. It will be for Cabinet and Council to decide in June 2013, when outturn is finalised, how to apply this saving, bearing in mind the need to keep the level of reserves robust and the uncertainty surrounding possible future budget funding gaps.

8.3 The continued impact of the economic recession presents particular concerns for the council's budgets. It is clearly important to ensure that the 2013/14 budgets are closely monitored over the coming months with a view to taking action at a future date, if necessary, in order to ensure that the council continues to deliver services within budget.

9. Consultation

9.1 The work undertaken to produce this report has involved consultation with a wide number of services and cost centre managers.

Report author	Contact officer: Sarah Didcote sarah.didcote@cheltenham.gov.uk, 01242 264125
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Appendices	<ol style="list-style-type: none">1. Risk Assessment2. Council Tax and NNDR collection3. Irrecoverable Business Rates
Background information	<ol style="list-style-type: none">1. Section 25 Report – Council 8th February 20132. Final Budget Proposals for 2013/14 – Council 8th February 2013

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	I	L	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1.	Unable to take corrective action in respect of reduced income streams.	Cabinet	June 2010	3	3	9	Reduce	In preparing the revised budget for 2012/13, SLT to consider the options for offsetting reduced income streams by analysing and reducing the level of expenditure across the Council.	June 2013	SLT	Corporate Risk Register
2.	If the council continues with its zero recruitment policy, then capacity may be impacted adversely, plus morale and motivation of employees	Cabinet	October 2010	3	3	9	Reduce	Executive Board will monitor the process, via quarterly reviews.	March 2013	Executive Board	Corporate Risk Register

Council Tax and Business Rates Collection Rates 2012-2013

Business Rates 2012/2013

Current Year Charges - 2012/2013			
Period	% Collected As at 28.02.13	February 2012 Target As at 28.02.13	Revised 2012/2013 Target As at 31.03.13
Comparison with 2011/2012	97.46%	98.10%	98.00%
	As at 29.02.12	% Collected 31.03.12	Top Quartile
	98.09%	98.78%	N/A
Comments			
The current collection rate is below the target for the end of February and lower than at the same time last year. Some businesses are struggling to pay and at this stage it seems unlikely that we can achieve the year end target of 98.85%. The target has been revised to 98.0%			

Previous Years Charges Outstanding in Current Year (2012/2013)

Period	Previous Year Debts Outstanding As at 28.02.13	February 2013 Target As at 28.02.13	Revised 2012/2013 Target As at 31.03.13
Comparison with 2011/2012	£415,791	£295,000	£350,000
	As at 29.02.12	Amount o/s 31.03.12	Top Quartile
	£319,821	£264,699	N/A
Comments			
The arrears are slightly higher than the target and also higher than at the same time last year. We are monitoring the position closely and working with any businesses having difficulty in paying but it is unlikely that we can achieve the target we can achieve the year end target of £255,000. The target has been revised to £350,000			

Council Tax 2012/2013

Current Year Charges - 2012/2013			
Period	% Collected As at 28.02.13	February 2012 Target As at 28.02.13	Revised 2012/2013 Target As at 31.03.13
Comparison with 2011/2012	97.32%	97.21%	N/A
	As at 29.02.12	% Collected 31.03.12	Top Quartile
	97.21%	98.23%	N/A
Comments			
The current collection rate is slightly higher than the target and higher than at the same time last year. We continue to monitor collection levels closely but are optimistic that we will achieve our year end target which is 98.24%			

Previous Years Charges Outstanding in Current Year (2012/2013)

Period	Previous Year Debts Outstanding As at 28.02.13	February 2012 Target As at 28.02.13	Revised 2012/2013 Target As at 31.03.13
Comparison with 2011/2012	£985,400	£865,000	£930,000
	As at 29.02.12	Amount o/s 31.03.12	Top Quartile
	£852,763	£802,330	N/A
Comments			
The arrears are slightly higher than the target and also higher than at the same time last year. Again, we are monitoring the position closely and working with council tax payers having difficulty in paying, but at the moment it seems unlikely that we can achieve the year end target of £790,000. The target has been revised to £930,000			

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Case No	Year of Liability	Reason	Amount being written off
1	2011	Ceased trading, no assets	5,696.00
2	2009	Ceased trading, no assets	8,903.99
3	2010	Ceased trading, no assets	8,545.50
4	2011	Ceased trading, no assets	11,209.90
5	2012	Ceased trading, no assets	5,365.04
6	2011	Ceased trading, no assets	11,066.62
7	2010	Ceased trading, no assets	7,840.29
8	2012	Ceased trading, no assets	9,960.56
Total being Written off			68,587.90

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Cheltenham Borough Council
Cabinet – 16 April 2013
Regulation Of Investigatory Powers (Ripa)
Revised Policy Guidelines

Accountable member	Councillor Jon Walklett, Cabinet member corporate services.
Accountable officer	Director Resources, Mark Sheldon.
Ward(s) affected	None
Key Decision	No
Executive summary	To update Cabinet on the new Regulation Investigatory Powers Act. (RIPA) and codes of practice; to summarise the new duties and responsibilities this legislation places on local authorities, their officers and members; and to recommend amendments to the procedural guide to meet these.
Recommendations	<ol style="list-style-type: none"> 1. To note the changes to the RIPA process made by the Protection of Freedoms Act 2012; 2. To approve the revised RIPA Policy Guidelines; and 3. To approve the designation of the nominated Executive Director as the Council's Senior Responsible Officer for the purposes of RIPA.

Financial implications	<p>There are no direct financial implications arising from this report. Where initiated, the RIPA process may support the safeguarding of public funds.</p> <p>Contact officer: Mark Sheldon</p> <p>Email: mark.sheldon@cheltenham.gov.uk, Tel: 01242 264123</p>
Legal implications	<p>The Council may, where it is necessary and proportionate, need to undertake surveillance. RIPA provides a legal framework for the control and regulation of surveillance and information techniques which public authorities undertake as part of their duties. The Council's procedural guide will provide information and advice to those seeking authorisation and those officers granting authorisation. It will also provide the public with information about how the Council approaches the use of surveillance.</p> <p>Contact officer: sarah.farooqi@teWKesbury.gov.uk, 01684 272693</p>

HR implications (including learning and organisational development)	There are no direct HR implications in this report. However, there will be implications for those employees involved in surveillance or acting as Senior Responsible Officers, where training will be provided Contact officer: donna.sheffield@cheltenham.gov.uk, 01242 774972
Key risks	<i>If surveillance is carried out without due regard to RIPA, Ministry of Justice Codes of Practice and the CBC procedural guidance then there are risks to an individual's rights and to the Councils reputation.</i>
Corporate and community plan Implications	None
Environmental and climate change implications	None

1. Background

- 1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) RIPA is the law governing the use of covert techniques by public authorities.
- 1.2 It requires that when public authorities need to use covert techniques to obtain private information about someone, they do it in a way that is necessary, proportionate and compatible with human rights.
- 1.3 Members will be aware from previous reports in respect of the Council's use of RIPA powers, that it must have in place a system of authorising, recording and reviewing any surveillance that it carries out that is covered by the Act.

RIPA AUTHORISATIONS

- 1.4 The Council is included within the RIPA framework with regard to the authorisation of both directed surveillance and of the use of covert human intelligence sources (CHIS). The Council is only able to authorise surveillance under RIPA if it is for the purpose of preventing, or detecting crime or preventing disorder subject to the "serious offence test". These are criminal offences punishable by a term of at least six months imprisonment or criminal offences relating to the under-age sale of alcohol or tobacco.
- 1.5 The Protection of Freedoms Act 2012 made a number of changes, amongst other things, to the RIPA process. From 1 November 2012, local authorities are required to obtain judicial approval from the Magistrates Court before they can use their existing RIPA powers. This applies to all local authority RIPA usage, including communications data, directed surveillance and covert human intelligence sources (CHIS). A judicial approval will also be required if authorisations are being renewed.
- 1.6 The Council will still be required to maintain a central record of internal authorisations signed by authorised officers. However, the authorisation will not take effect until judicial approval has been granted. Approval can only be given if the Magistrate is satisfied that:
 - there were reasonable grounds for the authorising officer approving the application to believe that the surveillance/CHIS was necessary and proportionate and that those grounds remain;

- the authorising officer was of the correct seniority within the Council, at Cheltenham Borough Council these officers are either Executive Directors or Directors;
- the granting of the authorisation was for the prescribed purpose, i.e. preventing or detecting crime and it satisfies the Serious Offence test for directed surveillance.

1.7 The central record of authorisations will be held and maintained by the Corporate Governance Risk and Compliance Officer who for the purposes of RIPA will be known as the RIPA Coordinator.

SERIOUS OFFENCE TEST

1.8 From 1 November 2012, the power to undertake directed surveillance is limited to offences that have a custodial sentence of 6 months or more. This is intended to restrict local authorities using surveillance inappropriately. The Council is still able to use RIPA powers for more serious criminal investigations such as benefit fraud, trading standards and licensing. However, in areas where the sentence is less than 6 months it will not be able to be used. The Act provides an exemption to this for under-age sales of tobacco and alcohol, which are punishable only by a fine. Because of the importance of directed surveillance in corroborating investigations into under-age sales of alcohol and tobacco, the test will not apply in these cases.

1.9 It is recommended that the nominated Executive Director be designated as the Senior Responsible Officer for the purposes of RIPA in accordance with the Home Office Covert Surveillance Code of Practice. It is considered good practice that a Senior Responsible Officer should be responsible for:

- the integrity of the process in place within the Council to authorise directed surveillance;
- compliance with the legislation and the Code of Practice;
- engagement with the Commissioners and inspectors when they conduct their inspections; and
- where necessary, overseeing the implementation of any post-inspection action plans recommended by the OSC.

1.10 The day-to-day responsibility will continue to be vested in the Council's Corporate Governance, Risk and Compliance Officer as the RIPA Coordinator.

REVISED RIPA POLICY GUIDELINES

1.11 The Council last updated its RIPA Policy Guidelines in June 2011. The current RIPA Policy Guidelines have been reviewed in light of legislative changes to the RIPA process.

1.12 A copy of the revised RIPA Guidance is attached at Appendix 2. The changes take account of the recently published Home Office guidance on the judicial approval process. They also include guidance to officers in relation to surveillance deemed to be outside of RIPA

1.13 The Audit Committee considered this guidance on the 20 March 2013 and made the following comments which were addressed at committee by the officers;

➤ Q Would staff be trained?

A. CBC arranged a training session for 40 people in January 2013 including staff who work

in the GO Partnership, Audit Cotswold and other staff who could possibly be involved in surveillance as it was important that people understood their roles and responsibilities. Additional training would be arranged if a need is identified through the annual appraisal process.

➤ Q. How would staff know what length of sentence could be attributed to different types of offence?

A. When a statute (law) creates a criminal offence the statute will detail the sentence that can be imposed. The statute will therefore set out whether or not an offence attracts a term of imprisonment of 6 months or more. If an officer is unsure whether the matter they are investigating could result in a offence where there is a possible sentence of imprisonment of 6 months or more they will be able to seek advice from One Legal.

➤ Q. How many suspected fraud cases had there been at CBC in the last 12 months?

A. It was not possible to provide a figure at that meeting on the number of cases of suspected fraud in a year however I can inform Members that there have been 428 cases referred to the Benefit investigation team in the last 12 months resulting in;

- a. 56 Cautions,
- b. 23 prosecutions and
- c. 18 administrative penalties.

The Councils Benefit Investigation Team has developed alternative methods of gathering information and intelligence to support its anti-fraud work, because of this RIPA has not been used at Cheltenham Borough Council since 2009. There are arrangements in place to ensure that if there was a need to undertake surveillance outside of RIPA the detail of that work would be authorised and recorded. There have been no reported investigations involving the use of non RIPA surveillance techniques.

➤ Q. Do Parish Councils have powers under RIPA?

A. Clerks at Parish Councils had not received training on RIPA as surveillance was not a power open to Parish Councils. The Corporate Governance, Risk and Compliance Officer could provide a short overview to Parish Councils on the CBC powers if they considered it necessary.

➤ Q. Would we use other agencies to investigate particularly where it was a serious offence?

A. In certain types of offence we are the enforcing authority and it would be our responsibility to undertake the investigation and any surveillance. Other agencies including the police could be involved at an early stage and they would also be required to comply with the requirements of RIPA. The involvement of any other agencies would be considered on a case by case basis, it is not felt that the guidance needs to be amended to reflect this.

1.14 The Audit Committee recommended that the guidance be approved by Cabinet.

2. Reasons for recommendations

2.1 The terms of reference for the Audit Committee require it to consider the reports of external audit and inspection agencies and monitor management action in response to the issues raised.

2.2 If authorisation is given for the use of RIPA then a briefing informing the Audit Committee of what

action has been taken will be made as soon as possible. It should be noted that the Council use these powers very sparingly and only when there is no other alternative. The last time Directed Surveillance was authorised was in 2009.

3. Alternative options considered

3.1 None

4. Consultation and feedback

4.1 Audit Committee, the Corporate Governance Group, Audit Cotswolds and officers involved in investigation and surveillance activities work have been consulted. Advice has also been sought from One Legal.

5. Performance management –monitoring and review

5.1 There will be reports to the Audit Committee on the use of RIPA.

Report author	Contact officer: Bryan Parsons Email; bryan.parsons@cheltenham.gov.uk Tel; 01242 264189
Appendices	1. Risk Assessment 2. RIPA guidance

The risk				Original risk score (impact x likelihood)			Managing risk					
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register	
	If surveillance is carried out without due regard to RIPA, Codes of Practice and the CBC procedural guidance then there are risks to an individual's rights and to the councils reputation.	Director Resources	20/03/2013	4	2	8	Accept	<ul style="list-style-type: none"> Put in place effective management and guidance. Promote the guidance with Service managers and investigation staff. 	On going	Corporate Governance, Risk and Compliance Officer		
<p>Explanatory notes</p> <p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>												

Regulation of Investigatory Powers Act (RIPA) Procedural Guide

(Including additional guidance on Non - RIPA surveillance)



CHEL TENHAM
BOROUGH COUNCIL

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Forward:

This revised guidance reflects two significant legislative changes.

1. **Approval of RIPA Authorisations by a Justice of the Peace:** The amendments in the Protection of Freedoms Act 2012 mean that the authorisations and notices under RIPA for the use of particular covert techniques can only be given effect once an order approving the authorisation or notice has been granted by a Justice of the Peace (JP).
2. **Directed surveillance crime threshold:** Amendments to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 means that we can only grant an authorisation under RIPA for the use of directed surveillance when investigating particular types of criminal offences. These are criminal offences which attract a maximum custodial sentence of six months or more or criminal offences relating to the underage sale of alcohol or tobacco.

This guidance provides advice on how Cheltenham Borough Council can best approach these changes in law and the new arrangements that need to be put in place to implement them effectively. It is supplementary to the legislation and to the statutory Codes of Practice. If there are any doubts about the guidance then the RIPA coordinator or One Legal should be consulted.

This guidance is intended for investigation officers that may use covert techniques, including Environmental Health, Benefit Fraud Officers and Enforcement Officers. However, it will also be of use to authorising officers and designated persons and to those who oversee the use of investigatory techniques including elected members.

Surveillance outside of RIPA

There may be a necessity for the Council to undertake surveillance which does not meet the criteria to use the RIPA legislation such as in cases of serious disciplinary investigations or for overt operations this guidance provides some advice on the process for those situations.

The Council must still meet its obligations under the Human Rights Act and any surveillance outside of RIPA must still be necessary and proportionate having taken account of the intrusion issues. The decision making process and the management of such surveillance must be well documented

There is a requirement for the Council's Senior Responsible Officer (SRO) to regularly monitor surveillance outside of RIPA. Therefore before any such surveillance takes place advice must be sought from Legal Services.

The Human Rights Act means that the Council by law has to respect the rights of everyone. In particular Article 8 guarantees everyone the right to respect for their private and family life, their home and correspondence. This right can only be interfered with when the interference is in accordance with the law and necessary. RIPA provides the framework for public authorities to carry out surveillance and the lawful means whereby rights can be infringed by the Council.

Cheltenham Borough Council undertakes to use these powers in line with the law, only when necessary and proportionately.

Steve Jordan. Leader.

Cheltenham Borough Council

1 INTRODUCTION

- 1.1 RIPA presents some difficult judgments which must be made from time to time. Whilst individual services can and do operate their own procedures, this is an issue which affects the Council corporately and staff will never be criticised for seeking advice.
- 1.2 The first point to emphasise is that any person who is unsure about whether to seek authorisation or unsure about whether to issue an authorisation, must seek immediate advice before acting. For those seeking authorisation, advice may initially be sought from their line manager, but it is always appropriate to seek the advice of a member of One Legal. RIPA is a piece of legislation with serious human rights implications whenever it is engaged. The Council is concerned about an individual's rights, but it is also concerned to guard against serious reputational risk.
- 1.3 The purpose of this document is to ensure that the Council complies with the Regulation of Investigatory Powers Act 2000 (RIPA).
- 1.4 This document provides guidance on the regulation of any covert surveillance that is carried out by council officers. This includes the use of undercover officers, informants and private investigators and other agents of the Council.
- 1.5 Any covert surveillance will have to be authorised and conducted in accordance with RIPA, the [statutory codes of practice](#) and this Guide and shall only be for one of the purposes set out in this Guide and for a purpose which the Council is legally required or empowered to investigate as part of its functions.
- 1.6 Covert surveillance will only be used by the Council where it judges such use to be necessary and proportionate to the seriousness of the crime or matter being investigated,
- 1.7 Before requesting authorisation Investigating Officers will have regard to this document and the statutory Codes of practice issued under section 71 RIPA. The Codes of practice are available from the RIPA Co-ordinator and direct from the Office of Surveillance website at <http://www.surveillancecommissioners.gov.uk/> or the Home Office at <http://security.homeoffice.gov.uk/ripa/>.
- 1.8 Before authorising covert surveillance Authorising Officers will have regard to this Guide and the statutory Codes of Practice. The Codes of Practice are available from the Home Office, CBC RIPA Co-ordinator and direct from the Office of Surveillance [website](#) or the [Home Office](#).
- 1.9 Authorising Officers will have to consider whether it is necessary and proportionate for Investigating Officers to undertake covert surveillance and whether it is possible to obtain the evidence through other means. The role of the authorising officer is covered in greater detail within paragraph 4.2.
- 1.10 Authorising Officers must give detailed consideration to the risk of collateral intrusion i.e. the risk of intruding into the privacy of others while watching someone else. This consideration and how the intrusion should be reduced and managed will need to be recorded within the application form.
- 1.11 There must be no situation where a council officer engages in covert surveillance

without obtaining authorisation in accordance with the procedures set out in this document, the statutory Codes of Practice and from RIPA.

- 1.12 Any queries concerning the content of the document should be addressed to the RIPA Co-ordinator (Governance, Risk and Compliance officer CBC).

2 THE REGULATION OF INVESTIGATORY POWERS ACT (RIPA)

2.1 The background to RIPA

RIPA provides a legal framework for the control and regulation of surveillance and information techniques which public authorities undertake as part of their duties. As was highlighted in the introduction to the Guide the need for such control arose as a result of the Human Rights Act 1998. Article 8 of the European Convention on Human Rights states that:-

1) Everyone has the right of respect for his private and family life, his home and his correspondence.

2) There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health and morals or for the protection of the rights and freedoms of others.

- 2.1.1 The right under Article 8 is a qualified right and authorities can interfere with this right for the reasons given in paragraph 2 of Article 8. RIPA provides the legal framework for lawful interference.

2.2 The scope of this Guide

- 2.2.1 This Guide intends to cover the surveillance and information gathering techniques which are most likely to be carried out by the Council.

- 2.2.2 Neither RIPA nor this Guide covers the use of any overt surveillance, general observation that forms part of the normal day to day duties of officers, the use of equipment to merely reinforce normal sensory perception such as binoculars or circumstances where members of the public who volunteer information to the Council.

- 2.2.3 RIPA does not normally cover the use of overt CCTV surveillance systems since members of the public are aware that such systems are in place.

- 2.2.4 There may however be times when the Council uses CCTV for a specific investigation or operation. This Guide does not cover in detail the use of surveillance via the Town Centre CCTV system. In such cases authorisation for directed surveillance may be required. If the CCTV is to be used for surveillance, Investigating Officers should consult and adhere to the provisions of RIPA and the Cheltenham Town Centre Closed Circuit Television Operating Procedures and the Cheltenham Town Centre Closed Circuit Television Codes of practice jointly set up by Cheltenham Borough Council and Gloucestershire Constabulary.

- 2.2.5 If an Investigating Officer envisages using any other CCTV system they should contact the RIPA Co-ordinator concerning any clarification on the administrative process or seek legal advice from One Legal before they conduct any surveillance.

2.3 Consequences of not following RIPA

2.3.1 Section 27 of RIPA provides that surveillance shall be lawful for all purposes if authorised and conducted in accordance with an authorisation granted under RIPA.

2.3.2 Lawful surveillance is exempted from civil liability.

2.3.3 Although not obtaining authorisation does not make the authorisation unlawful per se, it does have some consequences: -

- i. Evidence that is gathered may be inadmissible in court;
- ii. The subjects of surveillance can bring their own proceedings or defeat proceedings brought by the Council against them on human rights grounds i.e. we have infringed their rights under Article 8;
- iii. If a challenge under Article 8 is successful the Council could face a claim for financial compensation;
- iv. A complaint could be made to the Office of Surveillance Commissioners; and
- v. The Government has also introduced a system of tribunal. Any person who believes that their rights have been breached can have their complaint dealt with by way of a tribunal.

2.4 The Surveillance Commissioner

2.4.1 The Government has appointed a Surveillance Commissioner to review the way in which public authorities implement the requirements of RIPA. The Commissioner has a wide range of powers of access and investigation. The Council will receive periodic visits from the Office of the Surveillance Commissioners. They will check to see if the Council is complying with RIPA.

2.4.2 It is important that the Council can show it complies with this Guide and with the provisions of RIPA.

3 COVERT SURVEILLANCE

There are three categories of covert surveillance: -

1. Directed Surveillance;
2. Covert Human Intelligence Sources; and
3. Intrusive surveillance (Local Authorities are not permitted to carry out intrusive surveillance but the information is included in this procedural guide to avoid inadvertent use of intrusive surveillance. Intrusive surveillance is defined in RIPA as surveillance in respect of anything taking place on residential premises or in a private vehicle, involving the presence of an investigator on those premises/vehicles or carried out through a surveillance device.

3.1 Directed Surveillance (DS)

3.1.2 The majority of covert surveillance that will be undertaken by the Council will fall under the heading of Directed Surveillance (DS).

3.1.3 DS is defined as surveillance which is covert, but not intrusive, and is undertaken:

- a) For the purpose of a specific investigation or operation
- b) In such a manner as it is likely to result in obtaining private information about a person (whether or not that person is the target of the investigation or operation) and
- c) In a planned manner and not by way of an immediate response, whereby it would not be reasonably practicable to obtain an authorisation prior to the surveillance being carried out.

3.1.4 Any car park where Automated Number Plate Recognition (ANPR) is installed for either payment or enforcement purposes or it is intended to use that equipment to monitor a particular vehicle or person beyond that purpose then the use of RIPA legislation should be considered.

3.1.5 It is irrelevant where the subject of the DS is being observed.

If you intend to instruct an agent to carry out the DS the agent must complete and sign the form marked "agent's agreement form" contained in Appendix C. The agent will be subject to RIPA in the same way as any employee of the Council would be. They may also be inspected by the OSC in respect of that particular operation. This should be pointed out during the instruction and contract stage. If advice is required please contact One Legal.

3.1.6 The flow chart in Appendix D provides guidance on the council's procedure for making an application to a Justice of the Peace (JP) seeking an order to approve the grant of a RIPA authorisation or Notice.

3.2 Covert Human Intelligence Sources (CHIS)

This involves the establishment or maintenance of a personal or other relationship with a person for the covert purpose of obtaining or disclosing private information. A CHIS is a person who: -

- a) S/He establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph b) or c);
- b) S/He covertly uses such a relationship to obtain information or to provide access to any information to another person; or
- c) S/He covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship.

3.2.1 A relationship is established or maintained for a covert purpose if and only if it is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the purpose.

3.2.2 A relationship is used covertly, and information obtained is disclosed covertly, if and only if the relationship is used or the information is disclosed in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the use or disclosure in question.

3.2.3 Covert human intelligence sources may only be authorised if the following arrangements are in place:

- that there will at all times be an officer within the council who will have day to day responsibility for dealing with the source on behalf of the authority, and for the source's security, (the handler) the investigation officer
- that there will at all times be another officer within the council who will have general oversight of the use made of the source; (controller) i.e. the responsible line manager.
- that there will at all times be an officer within the council who has responsibility for maintaining a record of the use made of the source; and
- that the records relating to the source maintained by the council will always contain particulars as laid down by the Covert Human Intelligence Sources codes of practice

- 3.2.4 Legal advice should always be sought where consideration is given to the use of CHIS.
- 3.2.5 Special consideration must be given to the use of vulnerable individuals for CHIS. A 'vulnerable individual' is a person who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of himself, or unable to protect himself against significant harm or exploitation. Any individual of this description, or a juvenile as defined below, should only be authorised to act as a source in the most exceptional circumstances and only then when authorised by the Chief Executive (or, in his absence, the Deputy Chief Executive).
- 3.2.6 Before you undertake any surveillance involving a vulnerable individual (CHIS) you must consult One Legal before authorisation is sought.
- 3.2.7 Special safeguards also apply to the use or conduct of juvenile sources; that is sources under the age of 18 years. On no occasion should the use or conduct of a source under 16 years of age be authorised to give information against his parents or any person who has parental responsibility for him.
- 3.2.8 In other cases, authorisations should not be granted unless the special provisions contained within The Regulation of Investigatory Powers (Juveniles) Order 2000; SI No. 2793 are satisfied. Authorisations for juvenile sources should be granted by Chief Officers. Before you undertake any surveillance involving a juvenile you **must** consult the RIPA Co-ordinator concerning any clarification on the administrative process or seek legal advice from One Legal.
- 3.2.9 If you intend to instruct an agent to be the CHIS, the agent must complete and sign the form marked "agent's agreement form" contained in Appendix C. The agent will be subject to RIPA in the same way as any employee of the Council would be. They may also be inspected by the OSC in respect of that particular operation. This should be pointed out during the instruction and contract stage. If advice is required please contact either the RIPA Co-ordinator or One Legal.

- 3.2.10 The flow chart in Table 1 below provides guidance on the council's procedure for making an application to a Justice of the Peace seeking an order to approve the grant of a RIPA authorisation or Notice.

Table 2 is a copy of the guidance provided to JP/Magistrates on the process for dealing with an application from the council.

Appendix E provides additional information about the process the RIPA application and authorisation process by a JP/Magistrate

Table 1:

LOCAL AUTHORITY PROCEDURE: APPLICATION TO A JUSTICE OF THE PEACE SEEKING AN ORDER TO APPROVE THE GRANT OF A RIPA AUTHORISATION OR NOTICE

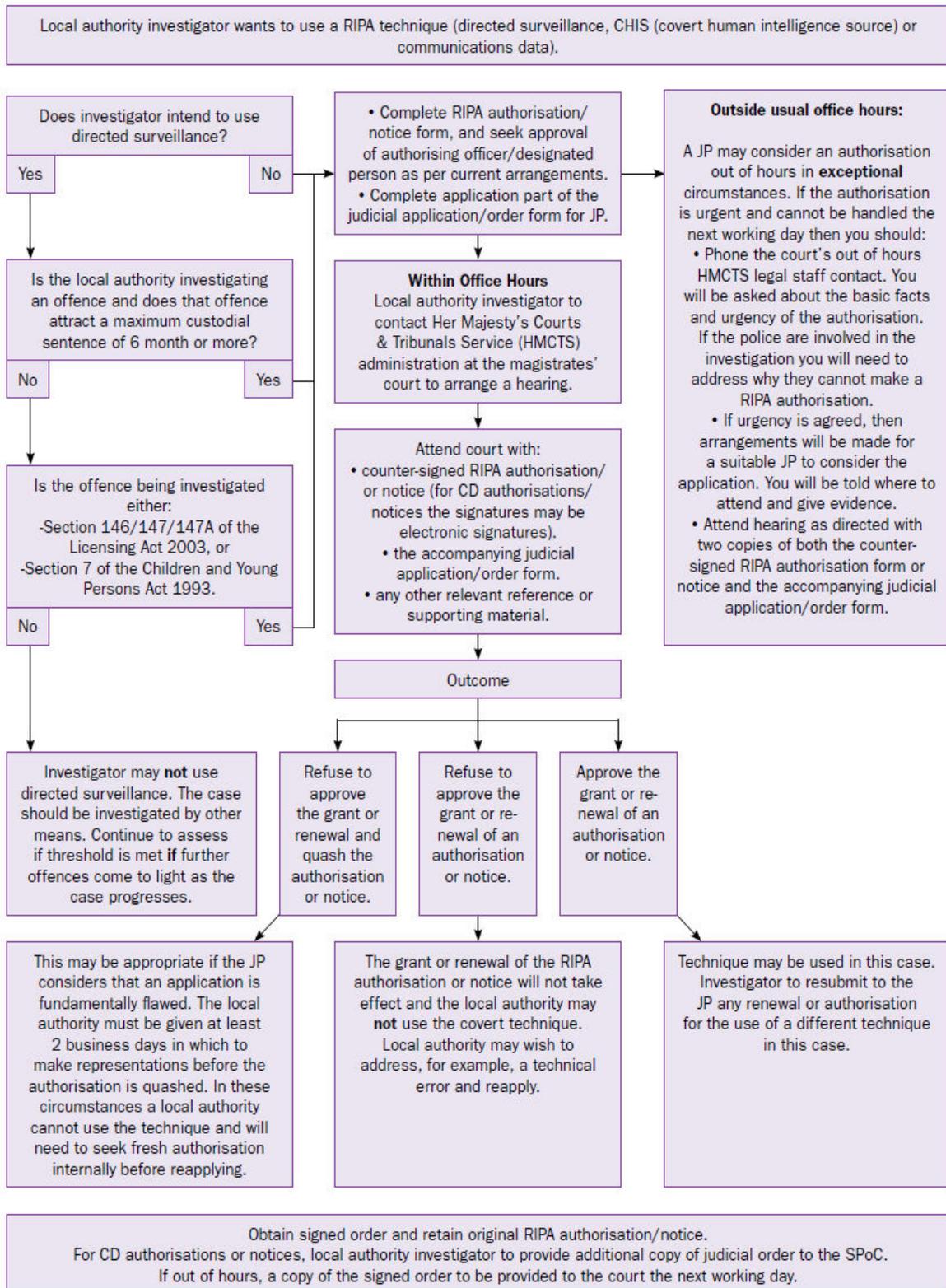
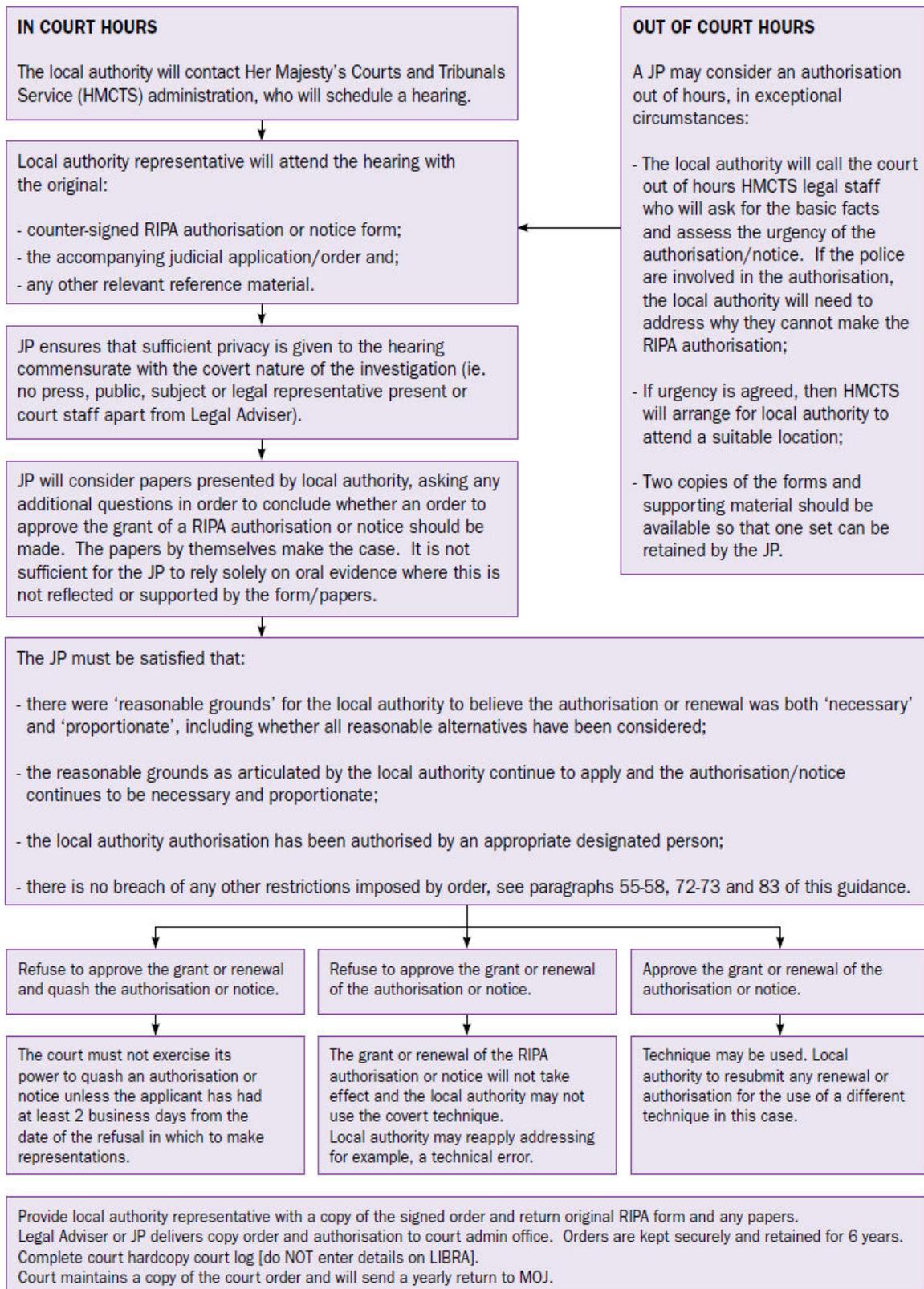


Table 2

PROCEDURE: LOCAL AUTHORITY APPLICATION TO A JUSTICE OF THE PEACE SEEKING AN ORDER TO APPROVE THE GRANT OF A RIPA AUTHORISATION OR NOTICE



3.3 Intrusive surveillance

Intrusive surveillance is defined as covert surveillance that: -

- a) is carried out in relation to anything taking place on any residential premises or in any private vehicle; and
- b) involves the presence of any individual on the premises or in the vehicle or is carried out by means of a surveillance device.
- c) If the device is not located on the premises or in the vehicle, it is not intrusive surveillance unless the device consistently provides information of the same quality and detail as might be expected to be obtained from a device actually present on the premises or in the vehicle. Operatives will need to be aware of using high powered zoom lenses or CCTV that may fall into this category.

3.3.1 *Local authorities are not authorised to conduct intrusive surveillance*

3.3.2 If you are considering conducting surveillance and the surveillance might fall within the scope of intrusive surveillance you **must** contact the RIPA Co-ordinator concerning any clarification on the administrative process or seek legal advice from One Legal before you undertake any surveillance.

4 PROCEDURE FOR OBTAINING AUTHORISATIONS

4.1 The Senior Responsible Officer:-

Role:

- 4.1.1 The nominated Executive Director is the Senior Responsible Officer (SRO) with responsibilities for:
 - 4.1.2 (a) ensuring the integrity of the Council's RIPA processes;
 - (b) ensuring compliance with RIPA legislation and the Home Office RIPA Codes of practice;
 - (c) engaging with the OSC when its inspector conducts an inspection;
 - (d) overseeing the implementation of any post – inspection plans;
 - (e) ensuring that all Authorising Officers are of an appropriate standard in light of any recommendations made by the OSC inspection reports;
 - (f) ensuring that concerns are addressed, where OSC inspection reports highlight
 - (g) concerns about the standards of Authorising Officers.
 - (h) must regularly monitor covert surveillance activity which takes place outside of RIPA as mentioned in the OSC Procedures and Guidance document.

4.2 Authorising Officers

- 4.2.1 The role of the Authorising Officers is to authorise, review, renew and cancel directed surveillance.
- 4.2.2 Authorising Officers should not be responsible for authorising investigations or operations in which they are directly involved. Where an Authorising Officer authorises such an investigation or operation the Central Record of Authorisations should highlight this and it should be brought to the attention of a Commissioner or Inspector during their next inspection.
- 4.2.3 The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 prescribes that for local authorities the Authorising Officer shall be a Director, Head of Service, Service Manager or equivalent as distinct from the officer responsible for the conduct of an investigation.
- 4.2.4 A designated Authorising Officer must qualify **both** by rank and by competence. Officers who wish to be designated must have been trained to an appropriate level so as to have an understanding of the Act and the requirements that must be satisfied before an authorisation can be granted.

Appendix A lists the officers within the Council who can grant authorisations all of which are at Strategic or Director level.

- 4.2.5 Authorisations must be given in writing by the Authorising Officer. They must complete the relevant section on the application form. They must believe the surveillance is **proportionate** to what it seeks to achieve, taking into account the **collateral intrusion** issues, and that the level of the surveillance is appropriate to achieve the objectives.
- 4.2.6 If any equipment such as covert cameras, video cameras is to be used, the Authorising Officer should know the capability of the equipment before Authorising its use. This will have an impact on collateral intrusion, necessity and proportionality. They should not rubber-stamp a request. It is important that they consider all the facts to justify their decision. They may be required to justify their actions in a court of law or some other tribunal.
- 4.2.7 Authorising Officers are also responsible for carrying out regular reviews of applications which they have authorised and also for the cancellation of authorisations.
- 4.2.8 Authorised Officers must acquaint themselves with the relevant Codes of Practice issued by the Home Office regarding RIPA and the latest Procedures and Guidance from the Office of Surveillance Commissioner (OSC). This latter document details their latest guidance to be followed and Authorising Officers are required to hold their own copy.

4.3 Authorising Officers – What you need to do before authorising surveillance

- 4.3.1 Before giving authorisation an Authorising Officer **must** be satisfied that the reason for the request is for the **prevention and detection of crime and that** the crime attracts a custodial sentence of a maximum of 6 months or more (Appendix D Flowchart, or is an offence relating to the underage sale of alcohol or tobacco under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933. one of the permitted reasons under the Act and permitted under the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003 i.e.

- the desired result of the covert surveillance cannot reasonably be achieved by other means
- the risks of collateral intrusion have been properly considered, whether the reason for the surveillance is balanced proportionately against the risk of collateral intrusion
- there must also be consideration given to the possibility of collecting confidential personal information. If there is a possibility of collecting personal information the matter should be passed to the Chief Officer for consideration

4.3.2 An Authorising Officer **must** also be satisfied the surveillance in each case is **necessary** and **proportionate in those particular circumstances**.

This is defined as:

Necessity

- Obtaining an authorisation under the 2000 Act, the 1997 Act and 1994 Act will only ensure that there is a justifiable interference with an individual's Article 8 rights if it is necessary and proportionate for these activities to take place. The 2000 Act first requires that the person granting an authorisation believe that the authorisation is necessary in the circumstances of the particular case for one or more of the statutory grounds in section 28(3) of the 2000 Act for directed surveillance and in section 32(3) of the 2000 Act for intrusive surveillance.
- The applicant and Authorising Officers must also be able to demonstrate that there were no other means of obtaining the same information in a less intrusive method.

Proportionality

- Then, if the activities are necessary, the person granting the authorisation must believe that they are proportionate to what is sought to be achieved by carrying them out. This involves balancing the intrusiveness of the activity on the target and others who might be affected by it against the need for the activity in operational terms. The activity will not be proportionate if it is excessive in the circumstances of the case or if the information which is sought could reasonably be obtained by other less intrusive means. All such activity should be carefully managed to meet the objective in question and must not be arbitrary or unfair.

4.3.3 The codes provide guidance relating to proportionality which should be considered by both applicants and Authorising Officers:

- balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
- explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others;
- considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;
- evidencing, as far as reasonably practicable, what other methods had been considered and why they were not implemented.

4.3.4 When the Authorising Officer has considered if the surveillance is necessary and proportionate they must complete the relevant section of the form explaining why in his/her opinion the surveillance is necessary and proportionate.

- 4.3.5 The applicant will now be required to complete the relevant forms and attend Magistrates' Court to seek a JP's approval (see Appendices D,E or G on the RIPA Application and Authorisation Process)
Appendix I provides the contact details for Her Majesty's Courts and Tribunal Service

4.4 Investigating Officers – What you need to do before applying for authorisation

- 4.4.1 Investigating Officers should think about the need to undertake DS or CHIS before they seek authorisation. Investigating Officers need to consider whether they can obtain the information by using techniques other than covert surveillance. There is nothing that prevents an Investigating Officer discussing the issue of surveillance beforehand.
- 4.4.2 Appendix E provides guidance on the procedure for making an application to a Justice of the Peace seeking an order to approve the grant of a RIPA authorisation or Notice.
- 4.4.3 The person seeking the authorisation should complete the application form having regard to the guidance given in this Guide and the statutory Codes of Practice.
- 4.4.4 The form should then be submitted to the Authorising Officer for authorisation.

5 DURATION, REVIEW, RENEWAL AND CANCELLATION OF AUTHORISATIONS

5.1 Duration

- 5.1.1 Directed Surveillance (DS) authorisations will cease to have effect after three months from the date of approval unless renewed or cancelled.
- 5.1.2 Authorisations should be given for the maximum duration but reviewed on a regular basis and formally cancelled when no longer needed.
- 5.1.3 CHIS authorisations will cease to have effect after twelve months from the date of approval.
- 5.1.4 Investigating Officers should indicate within the application the period of time that they estimate is required to carry the surveillance, this will be proportionate to the objectives of the investigation and give due consideration to collateral intrusion
- 5.1.5 For CHIS authorisations, legal advice must be sought, particularly those that involve the use of juveniles (for which the duration of such an authorisation is one month instead of twelve months).
- 5.1.6 It is the responsibility of the Investigating Officer to make sure that the authorisation is still valid when they undertake surveillance.

5.2 Review

- 5.2.1 An Investigating Officer must carry out a regular review of authorisations. If an authorisation is no longer required or considered to be no longer *necessary* or *proportionate* it **must** be cancelled.
- 5.2.2 The results of any review must be included on the review form Appendix B
- 5.2.3 The Authorising Officer also has a duty to review authorisations that have been granted when it is necessary or practicable to do so. Particular attention should be given to authorisations involving collateral intrusion or confidential material.
- 5.2.4 The Authorising Officer should keep a copy of the review form and a copy should be given to the Investigating Officer. The original copy of the review form must also be sent to the RIPA Co-ordinator.

5.3 Renewals

- 5.3.1 An Investigating Officer must ask an Authorising Officer to grant a renewal of an authorisation before it would cease to have effect. The approval of a Justice of the Peace (JP) is required prior to undertaking any covert activity as detailed within the renewal form (Appendix B) authorised by the Authorising Officer for a renewal to take effect.
- 5.3.2 Applications for renewals should not be made until shortly before the original authorisation period is due to expire but the applicant must take account of factors which may delay the renewal process (e.g. intervening weekends or the availability of the relevant Authorising Officer and a JP to consider the application).
- 5.3.3 Applications for renewal must not be made more than 3 working days before the authorisation is due to expire.
- 5.3.4 A renewal can last for up to three months, effective from the date that the previous authorisation would cease to have effect.
- 5.3.5 An Authorising Officer can grant more than one renewal as long as the request for authorisation still meets the requirements for authorisation. An Authorising Officer must still consider all of the issues that are required for a first application before a renewal can be granted. Each renewal will need the approval of a JP.
- 5.3.6 If the reason for requiring authorisation has changed from its original purpose it will not be appropriate to treat the application as a renewal. The original authorisation should be cancelled and a new authorisation should be granted.
- 5.3.7 An application for a renewal must be completed on the appropriate form.
Appendix B
- 5.3.8 The Authorising Officer and applicant should retain a copy of the renewal and the judicial application / order form. A copy of the original renewal form and the judicial application/order form must also be sent to the RIPA Co-ordinator for the Central Register

5.4 Cancellations

- 5.4.1 If the reason for requiring the authorisation no longer exists, the authorisation **must** be cancelled and in any event as soon as the operation for which an authorisation was sought ceases to be necessary or proportionate. This applies to both original applications and renewals.

- 5.4.2 Authorisations **must** also be cancelled if the surveillance has been carried out and the original aim has been achieved.
- 5.4.3 As soon as the decision is taken that directed surveillance should be discontinued, the applicant or other investigating officer involved in the investigation should inform the Authorising Officer. The Authorising Officer will formally instruct the investigating officer to cease the surveillance, noting the time and date of their decision. This will be required for the cancellation form Appendix B. The date and time when such an instruction was given should also be recorded in the central record of authorisations.
- 5.4.4 The Investigating Officer submitting the cancellation should complete in detail the relevant sections of the form and include the period of surveillance and what if any images were obtained and any images containing third parties. The Authorising Officer should then take this into account and issues instructions regarding the management and disposal of the images etc.
- 5.4.5 Authorisations **must** also be cancelled if the surveillance has been carried out and the original aim has been achieved. Authorising Officers will ensure that authorisations are either cancelled or renewed at the end of the appropriate statutory period.
- 5.4.3 An authorisation must be cancelled by using the form in Appendix B. An Investigating Officer should complete the details required on the first page, sections 1 and 2 of the cancellation form. The form should then be submitted to the Authorising Officer who will complete sections 3, 4 and 5.
- 5.4.4 It is the responsibility of the Investigating and Authorising Officers to monitor their authorisations and cancel them where appropriate.
- 5.4.5 The Authorising Officer should keep a copy of the cancellation form and a copy should be given to the Investigating Officer. A copy of the original cancellation form must also be sent to the RIPA Co-ordinator.
- 5.4.6 Authorising Officers must review upon cancellation of an application whether or not the objectives were achieved. Any issues identified by the review will be reported to the senior responsible officer.

5.5 Review of Policy and Procedure

- i The Audit Committee will receive reports following the use of RIPA. Those reports will contain information on;
- Where and when the powers had been used
 - The objective
 - The authorisation process
 - The job title of the Authorising Officer
 - The outcome including any legal court case
 - Any costs
- ii The Corporate Governance Group will review any use of RIPA and report to Audit Committee on an annual basis.

6 THE RIPA CO-ORDINATOR

6.1 Role

6.1.1 All original applications for authorisations and renewals including those that have been refused must be passed to the RIPA Co-ordinator as soon as possible after their completion with copies retained by the Authorising Officer and the Applicant.

6.1.2 All cancellations must also be passed to the RIPA Co-ordinator.

6.1.3 The RIPA Co-ordinator will: -

- i.. Keep the copies of the forms for a period of at least 3 years;
- ii.. Keep a register of all of the authorisations, renewals and cancellations; and Issue the unique reference number.
- iii.. Keep a database for identifying and monitoring expiry dates and renewal dates.
- iv. Along with, Directors, Service Managers, Authorising Officers, and the Investigating Officers must ensure that any electronic and paper records relating to a RIPA investigation are used, retained or destroyed in line with the Councils Information Management policies, departmental retention schedules and the Data Protection Act 1998. (DPA)
- v. Provide administrative support and guidance on the processes involved.
- vi. Not provide legal guidance or advice.
- vii.. Monitor the authorisations, renewals and cancellations so as to ensure consistency throughout the Council;
- viii.. Monitor each department's compliance and act on any cases of non compliance;
- ix.. Provide training and further guidance on and awareness of RIPA and the provisions of this Guide; and
- x.. Review the contents of the Guide.

6.1.4 It is however the responsibility of the Investigating Officer, the Authorising Officer and the Senior Responsible Officer to ensure that: -

- i. Authorisations are only sought and given where appropriate;
- ii. Authorisations are only sought and renewed where appropriate;
- iii. Authorisations are cancelled where appropriate; and
- iv. They act in accordance with the provisions of RIPA.

7.0 Legal advice

Page 160

- i One Legal will provide legal advice to staff making, renewing or cancelling authorisations
- ii Requests for legal advice will be in writing and copied to the RIPA Co-ordinator to keep on file
- iii Responses to requests for legal advice will be in writing and copied to the RIPA coordinator to keep on file.

APPENDIX A

Designated Officers

The following officers are the Senior Responsible Officer and the Authorising Officers for the purposes of RIPA

Senior Responsible Officer

Executive Director Pat Pratley

Authorising Officers

Chief Executive; Andrew North, Executive Director G Lewis,
Director Resources; M Sheldon.

Where the guidance states the Senior Responsible Officer but is unavailable then the Chief Executive will undertake the duties of the Senior Responsible Officer.

RIPA Co-ordinator

Corporate Governance, Risk and Compliance Officer. B Parsons

APPENDIX B

AUTHORISATION FORMS

All of the forms necessary for RIPA are available from the Home Office website these forms are a mandatory part of the process and must be used in line with the guidance.

All decisions about using regulated investigatory powers must be recorded as they are taken on the required form.

This is the case for:

- applicants seeking authority to undertake regulated conduct
- Authorising Officers and designated persons who consider and decide whether to grant authority or give notice for that conduct

Select the form that you require from the hyperlinked lists below;

Directed Surveillance

1. [Application for the use of directed surveillance](#)
2. [Renewal of directed surveillance](#)
3. [Review of the use of directed surveillance](#)
4. [Cancellation of the use of directed surveillance](#)

Covert Human Intelligence Sources

5. [Application for the use of covert human intelligence sources](#)
6. [Renewal of authorisation to use covert human intelligence sources](#)
7. [Reviewing the use of covert human intelligence sources](#)
8. [Cancellation of covert human intelligence sources](#)

Reporting errors to the IOCCO

9. [Reporting an error by a CSP to the IOCCO](#)
10. [Reporting an error by a public authority to the IOCCO](#)

APPENDIX C

REGULATION OF INVESTIGATORY POWERS ACT 2000

AGENT'S AGREEMENT FORM

I(insert Agent's name) of
.....(address) confirm that
in relation to
.....
.....
.....
.....
.....
.....(name or description of the surveillance) I
agree to comply with the Regulation of Investigatory Powers Act 2000, with all statutory
provisions, statutory Codes of practice and with Cheltenham Borough Council's Procedural
Guide when undertaking any and all surveillance authorised by Cheltenham Borough
Council under the Regulation of Investigatory Powers Act 2000. I acknowledge receipt of a
copy of the Council's Authorisation Form reference numberdated the
..... and I agree not to carry out any surveillance that is contrary this
authorisation.

Signed.....

Dated.....

APPENDIX D

Particulars to be contained in records when a COVERT HUMAN INTELLIGENCE SOURCE (CHIS) is used.

The following matters are specified for the purposes of paragraph (d) of section 29(5) of the 2000 Act (which must be included in the records relating to each CHIS):

- (a) the identity of the source;
- (b) the identity, where known, used by the source;
- (c) any relevant investigating authority other than the authority maintaining the records;
- (d) the means by which the source is referred to within each relevant investigating authority;
- (e) any other significant information connected with the security and welfare of the source;
- (f) any confirmation made by a person granting or renewing an authorisation for the conduct or use of a source that the information in paragraph (d) has been considered and that any identified risks to the security and welfare of the source have where appropriate been properly explained to and understood by the source;
- (g) the date when, and the circumstances in which, the source was recruited;
- (h) the identities of the persons who, in relation to the source, are discharging or have discharged the functions mentioned in section 29(5)(a) to (c) of the 2000 Act or in any order made by the Secretary of State under section 29(2)(c);
- (i) the periods during which those persons have discharged those responsibilities;
- (j) the tasks given to the source and the demands made of him in relation to his activities as a source;
- (j) all contacts or communications between the source and a person acting on behalf of any relevant investigating authority;
- (k) the information obtained by each relevant investigating authority by the conduct or use of the source;
- (l) any dissemination by that authority of information obtained in that way; and
- (m) in the case of a source who is not an undercover operative, every payment, benefit or reward and every offer of a payment, benefit or reward that is made or provided by or on behalf of any relevant investigating authority in respect of the source's activities for the benefit of that or any other relevant investigating authority.

In addition, records or copies of the following, as appropriate, should be kept by the relevant authority:

- (a) a copy of the authorisation together with any supplementary documentation and notification of the approval given by the Authorising Officer;
- (b) a copy of any renewal of an authorisation, together with the supporting documentation submitted when the renewal was requested;
- (c) the reason why the person renewing an authorisation considered it necessary to do so;
- (d) any authorisation which was granted or renewed orally (in an urgent case) and the reason why the case was considered urgent;
- (e) any risk assessment made in relation to the source;
- (f) the circumstances in which tasks were given to the source;
- (g) the value of the source to the investigating authority;
- (h) a record of the results of any reviews of the authorisation;
- (i) the reasons, if any, for not renewing an authorisation;
- (j) the reasons for cancelling an authorisation.
- (k) the date and time when any instruction was given by the Authorising Officer to cease using a source.

The records kept by public authorities should be maintained in such a way as to preserve the confidentiality of the source and the information provided by that source. There should, at all times, be a designated person within the relevant public authority who will have responsibility for maintaining a record of the use made of the source.

APPENDIX E

RIPA Application and Authorisation Process

As from 1 November 2012 two significant changes came into force that effects how local authorities use RIPA.

- **Approval of Authorisations under RIPA by a Justice of the Peace:** The amendments in the Protection of Freedoms Act 2012 mean that the council's authorisations under RIPA for the use of Directed Surveillance or use of Covert Human Intelligence sources (CHIS) can only be given effect once an order approving the authorisation has been granted by a Justice of the Peace (JP). **This applies to applications and renewals only, not reviews and cancellations.**
- **Directed surveillance crime threshold:** Amendments to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 ("the 2010 Order") mean that the council can now only grant an authorisation under RIPA for the use of Directed Surveillance where the council is investigating criminal offences which attract a maximum custodial sentence of six months or more or criminal offences relating to the underage sale of alcohol or tobacco under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933.
- This crime threshold, as mentioned, is only for Directed Surveillance.

Application, Review, Renewal and Cancellation Forms

No covert activity covered by RIPA or the use of a CHIS should be undertaken at any time unless it meets the legal criteria (see above) and has been authorised by an Authorising Officer and approved by a JP/Magistrate as mentioned above. The activity conducted must be in strict accordance with the terms of the authorisation.

The effect of the above legislation means that all applications and renewals for covert RIPA activity will have to have a JP's approval. It does not apply to Reviews and Cancellations which will still be carried out internally.

The procedure is as follows;

All applications and renewals for Directed Surveillance and use of a CHIS will be required to have a JP's approval.

The applicant will complete the relevant application form ensuring compliance with the statutory provisions shown above. The application form will be submitted to an Authorising Officer for consideration. If authorised, the applicant will also complete the required section of the judicial application/order form (Appendix D Flow Chart)

Although this form requires the applicant to provide a brief summary of the circumstances of the case on the judicial application form, this is supplementary to and does not replace the need to supply the original RIPA authorisation as well. All applications need to be made in consultation with One Legal.

It will then be necessary within Office hours to arrange with Her Majesty's Courts & Tribunals Service (HMCTS) administration at the Magistrates' Court to arrange a hearing. The hearing will be in private and heard by a single JP.

Officers who may present the application at these proceedings will need to be formally designated by the Council under section 223 of the Local Government Act 1972 to appear, be sworn in and present evidence or provide information as required by the JP. If in doubt as to whether you are able to present the application seek advice from One Legal

Upon attending the hearing, the officer must present to the JP the partially completed judicial application/order form, a copy of the RIPA application/authorisation form, together with any supporting documents setting out the case, and the original application/authorisation form.

The original RIPA application/authorisation should be shown to the JP but will be retained by the council so that it is available for inspection by the Commissioners' offices and in the event of any legal challenge or investigations by the Investigatory Powers Tribunal (IPT).

The JP will read and consider the RIPA application/ authorisation and the judicial application/order form Appendix H. They may have questions to clarify points or require additional reassurance on particular matters. These questions are supplementary to the content of the application form. **However the forms and supporting papers must by themselves make the case. It is not sufficient for the council to provide oral evidence where this is not reflected or supported in the papers provided.**

The JP will consider whether he or she is satisfied that at the time the authorisation was granted or renewed, there were reasonable grounds for believing that the authorisation was necessary and proportionate. They will also consider whether there continues to be reasonable grounds. In addition they must be satisfied that the person who granted the authorisation or gave the notice was an appropriate designated person within the council and the authorisation was made in accordance with any applicable legal restrictions, for example that the crime threshold for directed surveillance has been met.

The JP may decide to:

Approve the Grant or renewal of an authorisation

The grant or renewal of the RIPA authorisation will then take effect and the council may proceed to use the technique in that particular case.

Refuse to approve the grant or renewal of an authorisation

The RIPA authorisation will not take effect and the council may **not** use the technique in that case.

Where an application has been refused the applicant may wish to consider the reasons for that refusal. If more information was required by the JP to determine whether the application/authorisation has met the tests, and this is the reason for refusal the officer should consider whether they can reapply, for example, if there was information to support the application which was available to the council, but not included in the papers provided at the hearing.

For, a technical error (as defined by the JP/Magistrate), the form may be remedied without going through the internal authorisation process again. The officer may then wish to reapply for judicial approval once those steps have been taken.

Refuse to approve the grant or renewal and quash the authorisation or notice

This applies where the JP refuses to approve the application/authorisation or renew the application/authorisation and decides to quash the original authorisation or notice. However the court must not exercise its power to quash the application/authorisation unless the applicant has had at least 2 business days from the date of the refusal in which to make representations. If this is the case the officer will inform the One Legal who will consider whether to make any representations.

Whatever the decision the JP will record their decision on the order section of the judicial application/order form. The court administration will retain a copy of the council's RIPA application and authorisation form and the judicial application/order form. The officer will retain the original application/authorisation and a copy of the judicial application/order form.

If approved by the JP, the date of the approval becomes the commencement date and the three months duration will commence on this date, the officers are now allowed to undertake the activity.

The original application and the copy of the judicial application/order form should be forwarded to the Central Register and a copy retained by the applicant and if necessary by the Authorising Officer.

The council may only appeal a JP decision on a point of law by judicial review. If such a concern arises, One Legal will decide what action if any should be taken.

All the relevant forms for authorisation through to cancellation must be in writing using the standard forms which are available from the Intranet site, but officers must ensure that the circumstances of each case are accurately recorded on the application form.

If it is intended to undertake both directed surveillance and the use of a CHIS on the same surveillance subject, the respective applications forms and procedures should be followed and both activities should be considered separately on their own merits.

An application for an authorisation must include an assessment of the risk of any collateral intrusion or interference. The Authorising Officer will take this into account, particularly when considering the proportionality of the directed surveillance or the use of a CHIS.

Applications

All the relevant sections on an application form must be completed with sufficient information for the Authorising Officer to consider Necessity, Proportionality and the Collateral Intrusion issues. Risk assessments should take place prior to the completion of the application form. Each application should be completed on its own merits of the case. **Cutting and pasting or using template entries should not take place as this would leave the process open to challenge.**

All applications will be submitted to the Authorising Officer via the Line Manager of the appropriate enforcement team in order that they are aware of the activities being undertaken by the staff. The Line Manager will perform an initial quality check of the application. However they should not be involved in the sanctioning of the authorisation. Completed application forms are to be initialed by Line Managers to show that the quality check has been completed. The form should then be submitted to the Authorising Officer.

Applications whether authorised or refused will be issued with a unique number (obtained from the RIPA Coordinator) by the Authorising Officer, taken from the next available number in the Central Record of Authorisations which is held by the RIPA Coordinator.

If authorised the applicant will then complete the relevant section of the judicial application/order form and follow the procedure above by arranging and attending the Magistrates' Court to seek a JP's approval. (See procedure above RIPA application and authorisation process)

Duration of Applications

- Directed Surveillance 3 Months
- Renewal 3 Months
- Covert Human Intelligence Source 12 Months
- Juvenile Sources 1 Month
- Renewal 12 months

All Authorisations must be cancelled by completing a cancellation form. They must not be left to simply expire. (See cancellations page 16)

Reviews

When an application has been authorised regular reviews must be undertaken to assess the need for the surveillance to continue. The results of a review should be recorded on the central record of authorisations. Particular attention is drawn to the need to review authorisations frequently where the surveillance provides access to confidential information or involves collateral intrusion.

The reviews are dealt with internally by submitting the review form (which is available through the link in appendix B) to the Authorising Officer. There is no requirement for a review form to be submitted to a JP.

In each case the Authorising Officer should determine how often a review should take place. This should be as frequently as is considered necessary and practicable and they will record when they are to take place on the application form. This decision will be based on the circumstances of each application. However reviews will be conducted on a monthly or less basis to ensure that the activity is managed. It will be important for the Authorising Officer to be aware of when reviews are required following an authorisation to ensure that the applicants submit the review form on time.

Applicants should submit a review form by the review date set by the Authorising Officer. They should also use a review form for changes in circumstances to the original application so that the need to continue the activity can be reassessed. However if the circumstances or the objectives have changed considerably, or the techniques to be used are now different a new application form should be submitted and will be required to follow the process again and be approved by a JP. The applicant does not have to wait until the review date if it is being submitted for a change in circumstances.

Service managers of applicants should also make themselves aware of when the reviews are required to ensure that the relevant forms are completed on time.

Renewal

A renewal form is to be completed by the applicant when the original authorisation period is about to expire but directed surveillance is still required

Should it be necessary to renew a Directed Surveillance or CHIS application/authorisation this must be approved by a JP. The renewal forms can be found by following the links in appendix B

Applications for renewals should not be made until shortly before the original authorisation period is due to expire but the applicant must take account of factors which may delay the renewal process (e.g. intervening weekends or the availability of the relevant Authorising Officer and a JP to consider the application).

The applicant should complete all the sections within the renewal form and submit the form to the Authorising Officer.

Authorising Officers should examine the circumstances with regard to Necessity, Proportionality and the Collateral Intrusions issues before making a decision to renew the activity. A CHIS application should not be renewed unless a thorough review has been carried out covering the use made of the source, the tasks given to them and information obtained. The Authorising Officer must consider the results of the review when deciding whether to renew or not. The review and the consideration must be documented.

If the Authorising Officer refuses to renew the application the cancellation process should be completed. If the AO authorises the renewal of the activity the same process is to be followed as mentioned earlier for the initial application.

A renewal takes effect on the day on which the authorisation would have ceased and lasts for a further period of three months.

Cancellation

The cancellation form Appendix B is to be submitted by the applicant or another investigator in their absence. The Authorising Officer who granted or last renewed the authorisation must cancel it if they are satisfied that the directed surveillance no longer meets the criteria upon which it was authorised. Where the Authorising Officer is no longer available, this duty will fall on the person who has taken over the role of Authorising Officer or the person who is acting as Authorising Officer

As soon as the decision is taken that directed surveillance should be discontinued, the applicant or other investigating officer involved in the investigation should inform the Authorising Officer. The Authorising Officer will formally instruct the investigating officer to cease the surveillance, noting the time and date of their decision. This will be required for the cancellation form. The date and time when such an instruction was given should also be recorded in the central record of authorisations..

The Investigating Officer submitting the cancellation should complete in detail the relevant sections of the form and include the period of surveillance and what if any images were obtained and any images containing third parties. The Authorising Officer should then take this into account and issues instructions regarding the management and disposal of the images etc.

The cancellation process should also be used to evaluate whether the objectives have been achieved and whether the applicant carried out what they stated was necessary in the application form. This check will form part of the oversight function. Where issues are identified they will be brought to the attention of the line manager and the Senior Responsible Officer (SRO). This will assist with future audits and oversight.

Appendix F

Application for judicial approval for authorisation to obtain or disclose communications data, to use a Covert Human Intelligence Source or to conduct directed surveillance. Regulation of Investigatory Powers Act 2000 sections 23A, 23B, 32A, 32B.

Local authority:.....

Local authority department:.....

Offence under investigation:.....

Address of premises or identity of subject:.....
.....
.....
.....

Covert technique requested: (tick one and specify details)

- Communications Data**
- Covert Human Intelligence Source**
- Directed Surveillance**

Summary of details

.....
.....
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.....

Note: this application should be read in conjunction with the attached RIPA authorisation/RIPA application or notice.

Investigating Officer:.....
.....

Authorising Officer/Designated Person:.....

Officer(s) appearing before JP:.....

Address of applicant

department:.....
.....
.....

Contact telephone
number:.....

Contact email address
(optional):.....

Local authority
reference:.....
.

Number of
pages:.....
.....

Order made on an application for judicial approval for authorisation to obtain or disclose communications data, to use a covert human intelligence source or to conduct directed surveillance. Regulation of Investigatory Powers Act 2000 sections 23A, 23B, 32A, 32B.

Magistrates'
court:.....
.....

Having considered the application, (tick one):

I am satisfied that there are reasonable grounds for believing that the requirements of the Act were satisfied and remain satisfied, and that the relevant conditions are satisfied and I therefore approve the grant or renewal of the authorisation/notice.

I refuse to approve the grant or renewal of the authorisation/notice.

I refuse to approve the grant or renewal and quash the authorisation/notice.

Notes

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Reasons

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.....

Signed:

Date:

Time:

Full name:

Address of magistrates' court:

Appendix G

**Contact details for Her Majesty's Courts and Tribunal Service (HMCTS)
Gloucestershire**

During normal office hours, the court support section should be contacted either by phone or email. There number is 01452 420174 and email is gs-glosmadmin@hmcts.gsi.gov.uk.

The police have lists of those legal advisers that are contactable out of hours and in the unlikely situation when an application needs to be made urgently details can be obtained from the custody suites at Cheltenham and Gloucester and also the control room at Waterwells.

Appendix H

Non RIPA Surveillance Application Form

Public Authority <i>(including full address)</i>		Unique NO.	
--	--	-------------------	--

Name of Applicant		Department	
--------------------------	--	-------------------	--

Contact Details	
Investigation/Operation Name (if applicable)	
Investigating Officer (if a person other than the applicant)	

1. DETAILS OF APPLICATION
Describe the purpose of the specific operation or investigation e.g. Internal Disciplinary Investigation. Provide details of the investigation and intelligence case to date to include enquiries already undertaken and their result.
2. DETAILS OF SURVEILLANCE
Describe in detail the surveillance operation to be authorised and expected duration, including any premises, vehicles or equipment (e.g. camera, binoculars, video recording equipment) that may be used.
Explain the information that it is desired to obtain as a result of the directed surveillance.
3. SUBJECT OF SURVEILLANCE
The identities, where known, of those to be subject of the directed surveillance. Should include where known name, address, D.O.B. or approximate age. If persons unknown please provide any description's or other information that may be known.
4. MISDEMEANOR UNDER INVESTIGATION
Provide details of what offences or malpractice is under investigation, e.g.. Gross Misconduct against. Disciplinary Regulations.

5. INTRUSION AND PRIVACY ISSUES			
Detail whether <u>Confidential Information</u> such as information relating to legal privilege, health, spiritual counselling or other sensitive information is likely to be obtained against any person as a result of the surveillance activity.			
Supply details of any <u>Collateral Intrusion</u> . Why the intrusion is unavoidable. Describe precautions you will take to minimise and manage the collateral intrusion.			
6. NECESSITY AND PROPORTIONALITY			
Explain why it is necessary to use the covert methods applied for, can the evidence be obtained by less intrusive methods and explain why this surveillance is proportionate to what it seeks to achieve. How intrusive might it be on the subject of surveillance or on others? And why is this intrusion outweighed by the need for surveillance in operational terms or can the evidence be obtained by any other means?			
7. APPLICANTS DETAILS			
Name (print)		Tel No:	
Grade/Position		Date Submitted	
Signature			
<u>AUTHORISATION SECTION</u>			
8. AUTHORISED YES OR NO? (see below)			
If rejected detail the reason why.			
If authorised state exactly what activity is being authorised by whom and if necessary what equipment they are authorised to use and in what circumstances. This should include any specific instructions such as the management of any images which may be obtained. Cover who, what, where, when and how.			
9. NECESSITY AND PROPORTIONALITY			
Explain why you believe the surveillance is necessary and proportionate to what is sought to be achieved by carrying out the covert activity.			
10. CONFIDENTIAL INFORMATION			

If confidential information is likely to be obtained (see box 5) state how the information will be managed and disposed of. (Seek advice from legal section and data controller if required). May require a higher level of authority.

11. DATE OF FIRST REVIEW

Set a review date taking into account all the circumstances. The review date should be no longer than a month to demonstrate that the process is being managed effectively

Date	
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12. AUTHORISING OFFICER DETAILS

Name (Print)		Grade/Position	
Signature		Time and Date	

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Briefing Notes

Committee name: Cabinet

Date: 16 April 2013

Responsible officer: Jane Griffiths, Director,
Commissioning

This note contains information to keep Members informed of matters relating to the work of the Cabinet or a committee but where no decisions from Members are needed.

If Members have questions relating to matters shown, they are asked to contact the Officer indicated.

Update: Council activity on adapting to climate change

1. Background and context

- 1.1. Climate change adaptation is about preparing for and being able to cope with the unavoidable impacts of climate change. Whilst ongoing efforts to reduce carbon emissions are an essential part of tackling climate change, some of the damage is already taking effect. Weather patterns will continue to change as the climate responds to the increasing concentration of greenhouse gases in the atmosphere and it is likely that the frequency of more extreme weather events will increase.
- 1.2. The council has been working on climate change for a number of years and in 2010 all council divisions undertook risk assessments to identify the vulnerability of their particular services to climate change. This process demonstrated that climate change could have a significant impact on some services, requiring changes to procedures and practices, whilst other were not directly affected. However, all divisions identified the need to build flexibility and robustness into their service areas.

2. Measuring progress

- 2.1. In 2012, the risk assessments were reconstructed to reflect the council's new structure and all services reviewed their assessments, reporting on progress, identifying actions to take forward and adding new ones.
- 2.2. From this work, a new risk assessment was created for each service, which identifies actions to be taken from 2013 onwards. To reduce climate risk, services will need to ensure these actions are taken into account in service delivery.
- 2.3. The actual climate risks identified in 2010 still remain and two new risks have been added, which are referred to in the briefing note.
- 2.4. The section below summarises the progress made by services and the actions that will be taken forward in the future.

3. Summary of activity by service

3.1. Commissioning division

- 3.1.1. This division works on climate change adaptation in a number of different ways. Since 2010, the engagement & participation team has supported four out of five parish councils to participate in the county flood warden scheme and it also supports the fourteen Neighbourhood Coordination Groups, which act as a first point of contact with residents. It will be important to maintain these contacts going forward. The communications team has

an important role in providing the wider community with information. Whilst no pro-active communication has been undertaken, there has been reactive communication about event cancellations, such as Midsummer Fiesta and Paws in the Park in 2012. The elections team has surveyed all polling stations for flood risk and put together an alternative list of venues. All presiding officers are equipped with wind-up torches and some portable emergency lighting is available. The commissioning division is also responsible for producing the corporate strategy and, in conjunction with members, has been instrumental in ensuring climate change remains one of the council's corporate objectives.

- 3.1.2. In the future, the division will have a key role in ensuring climate change is considered in commissioning reviews, that issues are built into contracts and agreements and that an effective monitoring process is put in place. The division is also now responsible for the council's housing strategy and will need to ensure that the actions relating to climate change in this strategy are implemented. In the shorter term, it is recognised that more frequent occurrences of extreme weather could lead to greater damage to homes, potentially increasing the need for temporary re-housing. Over the much longer term, it is recognised that housing need could increase to meet demand from climate migrants.

3.2. GO shared service (Cheltenham)

- 3.2.1. In 2010, these services were delivered in-house. Despite the change in arrangements there is still an expectation that GO will consider climate change in service delivery. Since 2010 the HR team has reviewed relevant guidance, ie 'Basic Advice for Severe Weather Arrangements' and 'HR Aspects of a Major Emergency or Business Continuity Event', to ensure it remains fit-for-purpose. Met Office warnings of bad weather are used and staff are advised accordingly. A survey of work patterns was completed in Autumn 2012 to support business resilience through the Working Flexibly project and resilience has been built into the payroll service via the new finance system. The insurance team has undertaken work with property services and service managers to ensure robust procedures are in place in the event of extreme weather conditions (snow and ice) with particular attention to large open spaces such as car parks.
- 3.2.2. Much of the work for this service moving forward will be on ensuring that insurance cover remains adequate for council buildings and sites, taking any additional climate change vulnerabilities into account, and that guidance and procedures are reviewed regularly to ensure they remain appropriate. It will also be important for CBC to assure itself that GO's business continuity arrangements are sufficient to enable essential elements of the service to continue in challenging weather conditions.

3.3. Resources division

- 3.3.1. This division is responsible for the council's property assets and is therefore directly affected by climate change risks. Climate change issues are considered as a matter of course in refurbishment projects and since 2010, water management systems have been installed on all operational toilets and composting toilets have been installed on allotment sites. Demountable flood barriers are in place at Leisure@ and the AG&M. The frequency of gulley and gutter cleaning has also been increased. The potential for rainwater harvesting at the Depot has been explored and a quote obtained for a scheme. Resources division is also currently responsible for the ICT service, which has begun implementing the Working Flexibly project. This will improve business resilience as staff are increasingly able to work from home and at other remote locations. The availability of information and the ability to complete transactions online has been extended, which has reduced the need for the public to visit council offices, increasing business resilience.
- 3.3.2. Going forward, it will be vital to ensure adaptation is considered in the selection of new council premises. 'State and condition' surveys of all existing council buildings will also be carried out. This work may highlight vulnerabilities which will need to be addressed in maintenance programmes. Subject to the availability of funding, the property team will work with Ubico to install rainwater harvesting at the Depot. This could be important because the Ubico risk assessment has highlighted that water use may increase, not necessarily for

watering, but for street cleansing during prolonged dry periods, which may coincide with heatwaves and potential water shortages. Where practical, the team will take advantage of the county PV procurement framework to install PV on council buildings. In the longer term, changing building opening hours could be considered and 'cool' centres could be created in buildings (places for people to escape from heat) depending on weather conditions.

- 3.3.3. For the ICT service, the location of the duplicate IT system (currently housed at the Depot) will be reviewed in light of the shared service arrangements. It is important that this system is tested regularly and that senior managers are aware of its capability. Extending the availability of remote working will be considered and a business case for a video conferencing facility, to reduce the travelling requirement by shared services, will be developed. The use of mobile apps will also be explored to further reduce the need for the public to visit the offices. Climate change adaptation will need to be built into the agreement for the ICT shared service.

3.4. Wellbeing & Culture division

- 3.4.1. This division runs services which could be particularly vulnerable to climate change. Since 2010, the green environment team has undertaken a number of activities and begun altering procedures to reflect changes already being observed. This activity has included installing bunds and swales in Springfields Park, aerating lakes during the summer, extending perennial planting schemes and enabling an edible garden in Sandford Park in place of seasonal bedding. Maintenance schedules for grass cutting have been altered to respond to the longer growing season. To manage fire risk (which is considered could increase, although the recent wet summers have reduced this), wild flower areas are cut at the end of the season and arisings removed and most grass is cut short, avoiding the risk of grass fires. Nature reserves are being managed to encourage suitable native species and invasive exotic plants are controlled as resources allow. Most recently, a member working group has been considering the best approach for managing grass verges.
- 3.4.2. For this team moving forward, effective liaison with Ubico will be vital to ensure that appropriate management practices are in place for green spaces, which can be adapted as changes are observed. This could be in relation to, for example, changes in ecosystems or use of spaces. Extending the edible garden project will be considered and the redesign of parks and open spaces will include the consideration of adaptation measures, such as flood alleviation, shading, using appropriate materials for hard surfaces and re-planting etc.
- 3.4.3. Climate change adaptation is also an issue for the council's leisure and culture facilities. Since 2010, services have ensured that climate related events, such as water shortages, are built into risk registers and adequate insurance is in place for event cancellations. Health walks have been developed and promoted and the tourism & marketing strategy recognises the need to expand and develop the offer in Cheltenham without single focus attractions. The AG&M extension incorporates measures to ensure it will be adaptable to climate change, for example a brise soleil to limit solar gain. The museum collections are regularly monitored for signs of disease/infestation; this will become increasingly important as it is expected the prevalence of diseases and infestations will increase. A 10 year facilities strategy is currently under development and should take account of climate change impacts.
- 3.4.4. The public protection service recognises the need to adapt its inspection processes as required, for example ensuring proper storage of waste as temperatures rise and if numbers of vermin increase. Promotional work to raise awareness of the dangerous effects of climate change, such as heatstroke and skin cancer, will be linked to community events. This team is also responsible for measuring air quality and is currently working on an action plan for the existing air quality management area.

3.5. Ubico

- 3.5.1. In 2010, the environmental maintenance team was in the same division as green environment and carried out the operational work in the town's parks, gardens and other green spaces, so the green environment update above essentially reflects their work to date.

Now that this team is part of Ubico, it will be extremely important for them to work closely with the council's green space development manager on managing the town's green environment, observing changes and adapting practices accordingly.

3.5.2. The emphasis for the waste & recycling service in the short term has been and will be on business continuity during severe weather. A plan is in place for responding to this and includes catch-up procedures and also the requirement to divert staff to other duties. Long term waste service provision is monitored according to local need, and this would include climate change issues, such as the effects of increasing temperatures, but no significant changes have been required over the period.

3.5.3. Two new risks have been identified by Ubico:

- (i) Hot, dry conditions will increase water use in street cleansing, eg damping down dust. Managing this is linked to the business case for installing rainwater harvesting at the Depot (see resources division update), as hot, dry conditions are likely to be associated with water scarcity.
- (ii) Extreme weather and a longer growing season leading to fluctuations in the volume of garden waste.
To manage this, the service will need to consider how to manage fluctuating income and workload.

3.6. Built environment service

3.6.1. A number of the adaptation actions identified in 2010 were linked to the production of the Joint Core Strategy and other local development scheme documents, where policies and guidance will be put in place to address climate changes issues. Delays in the process have meant that these actions have not been implemented, so they have been carried forward into the new risk assessment.

3.6.2. The service has arranged training exercises covering issues such as 'sustainable urban drainage systems in urban situations' and 'zero carbon' homes, to which local architects and developers have been invited, with limited success. However, the intention is to continue holding sessions as resources allow. Climate change adaptation measures also form part of discussions at two-weekly design surgeries held with external partners, including Highways.

3.6.3. The private sector housing and economic development teams have not identified any specific activity on climate change adaptation thus far. However, moving forward, the housing service will need to consider how it can encourage landlords to adapt stock over time and protect vulnerable groups from unfair exposure to climate change. There may be opportunities for the economic development team to raise the profile of risks with local business and encourage the implementation of adaptation measures and business continuity plans to improve resilience in the local economy.

3.6.4. The urban design team is in a good position to influence the implementation of adaptation measures in the built environment. Trees are an essential feature of the town and play an important role in climate change adaptation, and the intention is to develop a strategic plan for trees to safeguard their future in Cheltenham. In the wider context of public open spaces, the team can encourage the incorporation of adaptation measures in design, such as providing shade, using water to reduce the urban heat island effect, planting regimes and so on. There is also a role for conservation and heritage in raising the profile of climate change in the context of historic buildings and to signpost to sites with further information, such as English Heritage. Water efficiency and water storage will also need to be considered in policies for historic buildings and in conservation areas.

3.7. Audit Cotswolds

3.7.1. This service has a role in reducing the vulnerability of the council to the risks and financial implications of adapting to climate change by ensuring actions identified in service risk assessments are implemented.

3.8. OneLegal

3.8.1. With the move to becoming a commissioning authority, OneLegal has a role in considering climate change and business continuity issues when constructing contracts and agreements for commissioned and shared services.

4. Business continuity and emergency planning

4.1. All services, whether commissioned or retained, are required to produce business continuity plans and are responsible for reviewing these on a regular basis. Two council sites, the Depot and Leisure@ are designated as alternative work locations and it will be important to retain this flexibility as arrangements for services utilising these sites change. The move towards more flexible working and shared services should increase business resilience as more members of staff are able to work remotely, but this process will need to be carefully managed to ensure all staff are kept informed should an extreme weather event occur and also to ensure sufficient numbers of staff are available to undertake other duties, such as water distribution, manning rest centres etc.

4.2. The council has its own emergency response plan, which is reviewed regularly and there is also a mutual aid response plan in place for working with other agencies. The county appears to be well prepared for flooding, but it is not clear whether consideration has been given to other events, such as a heatwave, which would bring its own set of problems and issues.

5. Conclusion

5.1. Since the risk assessments were first undertaken in 2010 all services have carried out work on adapting to climate change and this has been against a backdrop of significant restructuring and financial constraints. The reasons for carrying out this work have not necessarily been driven by climate change; the adaptation agenda is broad and activities can be carried out for a variety of reasons, but what is important is that these activities have taken place.

5.2. At the same time, services have clearly identified that there is still much to do. All services recognise they need to be able to react swiftly to unforeseen weather events which could occur next week, next year or in five years' time. At the same time, much longer term impacts must be considered and measures put in place now and over the next few years to ensure the council itself is not caught unawares, but also to ensure that the town and its residents, through the management of the built and natural environment and engaging with the local community, is able to adapt to our changing climate.

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Background documents available on request:

- Summary of climate risks affecting council services
- Individual service risk assessments for 2013

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Briefing Notes

Committee name : Cabinet

Date : 16 April 2013

Responsible officer : Jane Griffiths, Director
of Commissioning

This note contains information to keep Members informed of matters relating to the work of the Cabinet or a committee but where no decisions from Members are needed.

If Members have questions relating to matters shown, they are asked to contact the Officer indicated.

Lessons learnt from service disruption to waste and recycling

The Cabinet Member working group reviewed the recent experience of service disruption following the snow and ice and considered what lessons were to be learnt from this, what the current policy arrangements are and what more the council could do in future to ensure that disruption is limited during severe weather.

The working group noted that the Cabinet Member Sustainability, the director of commissioning and the managing director of Ubico apologised that services had been disrupted and that they each acknowledged that lessons should be learnt. This was the first major disruption to the service since alternate weekly collections had been introduced and the council's move to a commissioner/provider split, together with the call centre moving away from the depot and this had led to a number of issues which had not necessarily occurred in previous episodes of bad weather. Of these changes, it is considered that the introduction of alternate weekly collections was the most significant.

The overview and scrutiny task group had already looked at the decision making process and the working group endorsed their findings and agreed that clear channels of communication were key along with preparedness and good organisation, and clarity of messages during the catch up phase. Numerous officers of the council and Ubico were consulted in arriving at these findings, and their support and advice has been greatly appreciated in the conduct of this review.

In overall terms it was agreed that what is most important for the future is that the council has robust continuity plans in place, and that communications to the public are clear.

Background

- On Friday 18th January snow fell and temperatures dropped to below freezing over several days and waste and recycling services were disrupted. This situation continued until the Wednesday 22nd January, during which time kerbside collections could not be safely made, and all weather forecasting pointed to the freezing weather continuing until the end of the week. It was therefore announced that waste collection services would be suspended for the rest of the week, and resumed on Monday 28th January.
- In the event partial thaw was in progress on Thursday 23rd January, although even on Friday 24th January, not all roads and pavements were safely navigable by waste collection vehicles and crews. Some limited collections of e.g. black bags from certain streets were

undertaken used small caged vehicles during this period. Full service and catch-up started on Monday 28th January.

- Significant numbers of complaints were received that the council was not doing enough to collect waste during this period.

Immediate conclusions

- It was acknowledged by everyone that the suspension of collections during the initial period when there was snow and ice on the ground was justified. The risks to safety in attempting to drive vehicles on icy roads, or pull wheeled bins, or carry recycle, over icy pavements were very high –not only to crews but also to the public. Videos had been made available to the scrutiny task group on this subject, who had accepted this conclusion. The working group did consider whether vehicles could be fitted with winter tyres or snow chains, and other defences against severe weather, but after noting the practices in other authorities it was agreed that these measures are not really feasible. The rationale was on cost of acquisition, time to fit and remove such measures, fuel efficiency and also impact on the road surface.
- Ubico cannot be expected to undertake collections where it believes it would endanger its employees or members of the public, nor to produce resources which are in practice unobtainable, or beyond what the Council will finance.
- However what caused reputation issues for the council was the suspension for the full week. It is acknowledged in hindsight that the decision on the Wednesday to suspend services for the full week was inappropriate to the circumstances and that this must not happen in future, and that the aim should be to collect waste where it is safe to do so.
- It was acknowledged that though the website is a key medium in communication, there was over reliance on it, and the council should make more use of all forms of communications including social media, as well as traditional forms of communication through radio (especially in the early stages) and recorded telephone messages. It was also agreed that communications need to be clear, understandable, and free from jargon.
- A key recommendation for the future is that there should be daily service continuity meetings between the Cabinet Member, director of commissioning, strategic client officer, customer services manager, an officer from communications team and the managing director (or representative) from Ubico to assess the situation and agree what action needs to be taken or key messages need to be given out. Principally under the contract agreement with Ubico decisions are the responsibility of the director of commissioning in consultation with the Cabinet Member, but it is important to achieve an action plan, which will then be communicated very clearly and in a timely way.

Use of collection sites

- Access to the Swindon Road civic amenity site and to recycling “bring” sites should be cleared wherever possible and safe to do so as a priority.
- The council will allow vans to access the Swindon Road site, but only if they are presenting domestic waste, with certain details of this still to be resolved.
- It was agreed that the council and Ubico should identify a number of designated places where a supervised refuse vehicle could be placed. These facilities would be invoked in the most serious of severe weather arrangements i.e. where waste and recycling has not been collected for several days and it is unlikely that we would be in a position to collect waste in the near future. As soon as vehicles could be released for kerbside collections, it is expected the facilities would be withdrawn.

Service priorities and expectations during the thaw and catch-up

- The working group recognised that the process of “banking hours”, i.e. when crews could not go out to collect waste, is fundamental to how the council restores collections without resorting to overtime payments, and Ubico will work flexibly to ensure that services are maintained or restored as soon as practicable. However there are practical limits to undertaking catch up collections on the back of a normal scheduled round, including drivers’ hours, opening hours at disposal facilities and more. The other principle is that of using Saturdays to catch up, and these principles inform what can be achieved.
- Once there is a general thaw and it is safe to collect, the catch up priorities will be agreed and clear messages should be given to those who have missed their collections as to how long they may have to wait. It was recognised that each situation is likely to be different depending on whether partial collections have been made so it will be inevitable that there will be complaints. Responding in an unplanned way to complaints is not appropriate although there should be some flexibility to priority areas where there may be a build up with black bags or residents have difficulty storing their residual waste. Whilst it would be wrong to attempt to pre-dict the catch up process, there are expected priorities which would be followed for collection of waste. In terms of location they would be:
 - ◆ where collections can be safely made (e.g. only on cleared roads)
 - ◆ getting black bags off the streets
 - ◆ known difficult locations for waste collection where build ups of waste are problematic
 - ◆ those householders who have waited longest

and the priorities for which waste products are of highest collection priority would be

- 1) Food waste – for obvious reasons of health and hygiene
- 2) Refuse
- 3) Dry Recyclate in boxes
- 4) Garden Waste, where collections may be sometimes be suspended altogether

though in practice the availability of resources will limit the ability to prioritise to this list. It may for example be expedient to co-mingle certain wastes together. It is recognised as important that the ‘catch-up’ plans may change due to unexpected circumstances, so choice of message to the public needs to be carefully considered.

- The council will also invoke a suspension of the no side waste policy and allow the collection of black bags for residual waste, or additional containers for recycling.
- The working group considered service level expectations during and after a period of service disruption. Investigation of recent events suggests that, given we now have alternate weekly collections, then all things being equal a service provider can catch up without cancelling collections in an incident lasting up to 5 days of stoppage, including Saturdays. Following a longer stoppage, the catch-up operation is likely to stretch to a full fortnightly cycle, with a result that the effective catch-up for a lot of people is 4 weeks after the previous missed refuse or recycling collection. It is recognised that this will impact on residents but it is important to be honest about what can and cannot be achieved.
- A particular issue which came up during the bad weather was from households who have children in nappies. Some of the measures outlined above will go towards mitigating the impact. Also, the council has a policy to allow those with two or more children under two in nappies to have a larger bin and it may be that some residents are not aware of this.
- Long-term disruption: If the service is disrupted for a longer period of time emergency measures may well have been instigated as outlined above and the council would need to consider what messages it gave out to the public with regards to the catch up, at the time. In the unlikely event that the town was faced with severe snow and ice for a long period of time stretching over several weeks then the council would need to consider what

emergency measures over and above listed in this review could be instigated.

Communications

- Communications should be clear, simple and regularly updated and delivered directly to residents via the radio, internet, social media sites, as well as using parish councils, ward councillors, and residents' networks – and should be checked for absence of jargon. Further useful contacts are CBH and other registered housing providers.
- During the recent service disruption the customer services team took a significant increase in telephone calls and consideration was given to having a message on the telephone line during such situations which would enable callers to get an answer to their query without waiting in a queue. It was also recognised that the overnight recorded message system might be enhanced if a range of clear messages could be provided, rather than a single message. Consideration should be given to the possibility of re-introducing a dedicated 'waste' telephone line, with more detailed recorded messages. A systems thinking team is currently examining how best to ensure effective communications for the public
- Communications will normally go through the Cheltenham Borough Council Communications team, as from the Director of Commissioning, and will be copied to the Joint Waste Management Unit which is the operational arm of the Gloucestershire Joint Waste committee, formed on 1st April 2013.
- Daily meetings should inform communications, but there is a need for timely communications early in the day, especially at the start of the adverse weather.

Outstanding Actions

- Many of the required actions have been put into procedures already, but this process needs to be completed including resolution of access to Swindon Road depot by vans.
- Possible sites for emergency refuse collections to be identified.
- A range of 'template' Day 1' communications to be prepared in advance.
- Systems thinking team work to be completed in terms of how to optimise internal and external communications, optimum location of the customer service team, and possible use of dedicated 'waste' telephone line and telephone messages, and all and any other communication improvements.
- A conversation needs to take place with the Gloucestershire Joint Waste committee, and its Joint Waste management unit, as to wider implications across the area.

Concluding remarks

- Once again the council would like to apologise that the service provided to the public during the January snow was not as good as it should have provided.
- This review is not intended to be a 'blueprint' for the future, the detail of every situation is different, and has to be managed in the circumstances of the event. However it is intended here to lay out principles and reasonable expectations for the future, primarily in the event of disruption caused by snow and ice, but with the knowledge these principles can be carried across to other weather events.
- Finally, I would like to thank all those officers and members who have worked hard to enable the situation to be studied, and new procedures to be put in place.

Councillor Roger Whyborn, Cabinet Member Sustainability

(Contact Officer: Jane Griffiths, Director of Commissioning, Tel No: 01242 264216)