

Cheltenham Borough Council
Audit Committee – 11 January 2017
REGULATION OF INVESTIGATORY POWERS (RIPA)
Office of Surveillance Commissioner’s Inspection Report

Accountable member	Councillor Roger Whyborn - Cabinet Member for Corporate Services
Accountable officer	Pat Pratley - Head of Paid Service
Ward(s) affected	None
Key Decision	No
Executive summary	To update Audit Committee on the inspection and report by His Honour Norman Jones QC, Assistant Commissioner from the Office of Surveillance Commissioners (OSC) on the Councils arrangements for the use of the powers under the Regulation of Investigatory Powers Act 2000 (RIPA).
Recommendations	<p>To consider the findings and recommendations within the OSC report following the inspection of the Councils arrangements for the use of RIPA (Appendix 2)</p> <p>To agree to consider the report recommendations and any resulting management response as part of the Annual review of the RIPA Policies at the March 2017 Audit Committee.</p>

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: Paul Jones</p> <p>Email: paul.jones@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 provides information and advice to those seeking authorisation and those officers granting authorisation, these recommendations should improve those arrangements.</p> <p>Contact officer: donna.marks@tewkesbury.gov.uk, 01684 275010</p>

HR implications (including learning and organisational development)	HR implications are only for those employees directly involved in dealing with surveillance ensuring that RIPA legislation is adhered to. Contact officer: Georgie.pugh@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. Appendix 1</i>
Corporate and community plan Implications	None
Environmental and climate change implications	None

1. Background

RIPA provides the Office of Surveillance Commissioners with the powers to carry out inspections and to provide effective and efficient oversight of the conduct of covert surveillance and covert human intelligence sources and for the acquisition of Communications Data.

The Audit Committee functions within the constitution require that it review external audit reports when they are provided to the council.

On 19 October 2016, His Honour Norman Jones QC, Assistant Surveillance Commissioner with the Office of Surveillance Commissioners (OSC) undertook an inspection of the Council's arrangements to ensure compliance with the legislative provisions, which govern the use of covert surveillance. The Office of Surveillance Commissioner issued a report on this inspection on the 1 November (appendix 2)

The use of covert surveillance is strictly governed by RIPA. The responsibility for the overall governance arrangements rests with the Head of Paid Service who acts as the RIPA Senior Responsible Officer.

Audit Committee approved the current RIPA Guidelines March 2016 to ensure that officers comply with the legal requirements of the Regulation of Investigatory Powers Act 2000, these are due for review in March 2017. The current RIPA guidance is listed as a background paper and is available on the website.

2. The Assistant Commissioner in his report concluded that:-

- That it is unlikely that CBC will undertake covert surveillance in the near future. If it were to do so the RIPA procedural guide provides excellent guidance for both applicant and authorising officers.
- Some attention requires to be paid to the raising of RIPA awareness in Council and the training of authorising officers and officers who, though unlikely, may be called upon to manage Covert Human Intelligence Source (CHIS).
- It was encouraging to note that three of the recommendations from the last report had been fully discharged although a fourth remains extant.

He also made 4 recommendations that will strengthen and improve the Councils arrangements and guidance;

1. Amend the RIPA procedural guide (paragraph 10)

2. Raise RIPA awareness throughout the Council (paragraph 12)
3. Establish regular refresher training for authorising officers and ensure officers are trained to manage CHIS. (paragraphs 15 and 19)
4. Establish a schedule of equipment, which may be deployed for covert surveillance (paragraph 20).

3. Plan to Implement Recommendations

The Senior Responsible Officer, the Corporate Governance, Risk and Compliance Officer and the Senior Team Leader of the Counter Fraud Unit considered the report and the four recommendations.

A Social Media Policy has been drafted and will be put before members when the next annual review takes place.

Refresher Training has been arranged for all Senior Officers throughout the County and Districts including Cheltenham Borough Council on Tuesday 10th January 2017. This training will then be cascaded down to officers undertaking surveillance activity. It is highly likely in the coming months, some covert activity may be undertaken in light of the increased activity around fly tipping, therefore authorisations may be required if directed surveillance is undertaken.

Therefore all of the recommendations will be met but because of other operational changes taking place following the approval by Cabinet to formulise the Counter Fraud Partnership these should be addressed as part of the annual review of the RIPA procedures in March 2017.

The report will be considered further by the Corporate Governance Board in February and an action plan will be drafted by the Counter Fraud Unit, this will feature as part of the RIPA procedural review in March to deliver the changes needed to meet all the recommendations by April 2017.

4. Alternative options considered

None.

5. Consultation and feedback

The Corporate Governance Group. Advice has also been sought from One Legal.

6. Performance management – monitoring and review

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, 01242 264189
Appendices	1. Risk Assessment 2. OSC report
Background papers	1. Current RIPA guidance

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likely-hood 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.	Senior Responsible Officer	11/01/2017	3	2	6	Accept	<ul style="list-style-type: none"> Put in place effective internal controls to ensure compliance with guidance. Promote the guidance with Service managers and investigation staff. 	Ongoing	Team Leader Counter Fraud Unit	
<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>											