

**Cheltenham Borough Council**  
**Audit Committee – 22 March 2017**  
**Counter Fraud Unit Report and**  
**Regulation of Investigatory Powers Act 2000 (RIPA) Update**

<b>Accountable Member</b>	Cabinet Member Corporate Services, Councillor Roger Whyborn
<b>Accountable Officer</b>	Paul Jones Chief Finance Officer <a href="mailto:Paul.Jones@cheltenham.gov.uk">Paul.Jones@cheltenham.gov.uk</a>
<b>Report Author</b>	Emma Cathcart Counter Fraud Team Leader 01285 623356 <a href="mailto:Emma.Cathcart@cotswold.gov.uk">Emma.Cathcart@cotswold.gov.uk</a>
<b>Ward(s) affected</b>	All indirectly
<b>Key/Significant Decision</b>	No
<b>Executive summary</b>	<p>The purpose of the report is to provide the Audit Committee with assurance over the counter fraud activities of the Council.</p> <p>Cabinet approved the Authority's participation in the establishment of a permanent Counter Fraud Unit on 6 December 2016. Following subsequent decisions at other partner Council's, the Counter Fraud Unit will be a permanent support service from 1 April 2017 serving the partner Councils across the region including Cheltenham Borough Council.</p> <p>Work plans for 2017/2018 will be agreed with the Chief Finance Officer and appropriate Service Managers.</p> <p>The Counter Fraud Unit will continue to provide Audit Committee with direct updates biannually, for Cheltenham Borough Council this will be at the March and September meetings.</p> <p>The report also provides the Audit Committee with an update in relation to RIPA and the Council's existing policies and arrangements.</p>
<b>Recommendations</b>	<p><b>That Audit Committee:</b></p> <ol style="list-style-type: none"> <li><b>1. Notes the report and makes comment as necessary.</b></li> </ol>

<b>Financial implications</b>	<p>There are no direct financial implications arising from this report but the Cabinet Report related to shared counter fraud services, presented on 6 December 2016, details the financial rationale for the Council's participation in a Counter Fraud Unit which services the region.</p> <p><b>Contact Officer: Paul Jones, S151 Officer</b>  <b>Paul.Jones@cheltenham.gov.uk</b></p>
<b>Legal implications</b>	<p>The Council is required to ensure that it complies with the Regulation of Investigatory Powers Act 'RIPA' 2000 and any other relevant/statutory legislation regarding investigations. Any authorisations for directed/covert surveillance or the acquisition of communications data undertaken should be recorded appropriately in the Central Register. In general terms, the existence and application of an effective fraud risk management regime assists the Council in effective financial governance which is less susceptible to legal challenge.</p> <p><b>Contact officer: Peter Lewis, One Legal</b>  <b>peter.lewis@tewkesbury.gov.uk</b></p>
<b>HR implications (including learning and organisational development)</b>	<p>There are no direct HR implications arising from the content of this report.</p> <p><b>Contact officer: Julie McCarthy, HR Manager (West)</b>  <b>Julie.mccarthy@cheltenham.gov.uk</b></p>
<b>Key risks</b>	<p>If the Council does not have effective counter fraud and corruption controls it risks both assets and reputation.</p>
<b>Corporate and community plan Implications</b>	<p>In administering its responsibilities; this Council has a duty to prevent fraud and corruption, whether it is attempted by someone outside or within the Council such as another organisation, a resident, an employee or Councillor. The Council is committed to an effective counter fraud and corruption culture, by promoting high ethical standards and encouraging the prevention and detection of fraudulent activities, thus supporting corporate and community plans.</p>
<b>Environmental and climate change implications</b>	<p>N/A</p>
<b>Property/Asset Implications</b>	<p>There are no property implications associated with this report.</p> <p><b>Contact officer: David Roberts, Head of Property Services</b>  <b>david.roberts@cheltenham.gov.uk</b></p>

## 1. Counter Fraud Unit

- 1.1. Following the successful DCLG bid to fund the set-up of a Gloucestershire wide Counter Fraud Unit, the team has been undertaking feasibility work (both strategic and operational) on behalf of a number of Gloucestershire Authorities, West Oxfordshire District Council and Cheltenham Borough Homes.
- 1.2. A business case was presented across the partner authorities to reflect the financial sustainability of creating a permanent Counter Fraud Unit. Cabinet approved the Authority's participation in the establishment of a permanent Counter Fraud Unit on 6 December 2016. Following subsequent decisions at other partner Council's, the Counter Fraud Unit will be a permanent support service from 1 April 2017 serving the Councils across the region including Cheltenham Borough Council.
- 1.3. The work plan for 2017/2018 will be agreed with the Chief Finance Officer and appropriate Service Managers. The team will be concentrating on adding value in areas associated with risk.

A full work plan will be provided to Audit Committee when this is finalised and a full review and update report will be presented at future meetings.

- 1.4. The Counter Fraud Unit will continue to provide Audit Committee with direct updates biannually; for Cheltenham Borough Council this will be at the March and September meetings.

## **2. Regulation of Investigatory Powers Act 2000 (RIPA)**

- 2.1. The Council's own RIPA Policies are based on the requirements of The Regulation of Investigatory Powers Act 2000 (RIPA) and the Codes of Practice relating to directed surveillance and the acquisition of communications data.
- 2.2. Members are aware that the Council must have robust processes in place with regard to the use of these powers.
- 2.3. There have been no substantive changes to the RIPA Procedural Guidance Policy since last year although it should be noted that there has been a change to the arrangements relating to officers involved in the authorisation of the RIPA process. The Senior Responsible Officer is the Head of Paid Service, Pat Pratley and the Authorising Officers are the Managing Director of Place and Economic Development, Tim Atkins and the Director of Environment, Mike Redman.
- 2.4. From 1 April 2017 the operational delivery of counter fraud work, which will include the use of RIPA by the Authority, will fall within the remit of the Counter Fraud Unit. Emma Cathcart will act as the RIPA Coordinating Officer.
- 2.5. The Council responded to the recent inspection report from the Office of Surveillance Commissioners to confirm the following:
  - i) That the Counter Fraud Unit would maintain a central record of authorisations for RIPA and Non-RIPA activity.
  - ii) That the RIPA Procedural Guide would be amended in relation to the requirement for a risk assessment relating to the use of a covert human intelligence source (CHIS) in every case.
  - iii) That following the introduction of the new policy relating to the acquisition of communications data (and the use of Social Media) training to all enforcement staff would be provided.
  - iv) That training would be provided to the Senior Responsible Officer and Authorising Officers; this was completed on 10 January 2017.
  - v) That the Counter Fraud Unit would develop and implement a Social Media Policy.
  - vi) That senior members of the Counter Fraud Unit would undertake training in relation to the use of CHIS.
  - vii) That the Counter Fraud Unit would introduce and maintain a schedule of technical equipment held by the Council.
- 2.6. The Council takes responsibility for ensuring its RIPA procedures are continuously improved and asks that any Officers with suggestions contact the RIPA Coordinator in the first instance. If any of the Home Office Codes of Practice change, the appropriate guide will be updated, and the amended version placed on the internet / published accordingly. Regular training sessions will also be provided to ensure that staff members are fully conversant with the Act.
- 2.7. There have been no RIPA applications made by the Council during 2016/2017.
- 2.8. There will be a review of current policy documentation and processes following the introduction of the Investigatory Powers Act 2016.

<b>Appendices</b>	1. Risk Assessment
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## 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
1	The authority suffers material loss and reputational damage due to fraud	Chief Finance Officer	December 2014	3	3	9	Reduce	Maintain a Counter Fraud Team to reduce the likelihood of the risk materialising and also to help recover losses, thus reducing the impact.	Ongoing	Chief Finance Officer	
2	Without dedicated specialist staff in place, the Council may be unable to take effective and efficient measures to counter fraud, potentially resulting in authority suffering material losses due to fraud and error	Chief Finance Officer	September 2016	3	4	12		Retain a specialist Counter Fraud Unit to tackle the misuse of public funds on behalf of the Council.	Ongoing	Chief Financial Officer	
3	If the Council fails to put in place adequate policy and process covering the use of RIPA powers then it risks damage to its reputation and financial loss	Head of Paid Service	March 2016	4	2	8		Put in place effective management and guidance. Promote the guidance with managers and enforcement officers	Ongoing	Head of Paid Service	
<p><b>Explanatory notes</b></p> <p><b>Impact</b> – 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><b>Likelihood</b> – 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><b>Control</b> - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											