

**Cheltenham Borough Council**  
**Audit Committee – 25 September 2013**  
**REGULATION OF INVESTIGATORY POWERS (RIPA)**  
**Office of Surveillance Commissioner's Inspection Report**

<b>Accountable member</b>	<b>Councillor Jon Walklett - Cabinet Member for Corporate Services</b>
<b>Accountable officer</b>	<b>Mark Sheldon - Director of Resources,</b>
<b>Ward(s) affected</b>	<b>None</b>
<b>Key Decision</b>	<b>No</b>
<b>Executive summary</b>	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)
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. To note the findings and recommendations within the OSC report following the inspection on the 26<sup>th</sup> July 2013 regarding the Councils arrangements for the use of RIPA (Appendix 2)</li> <li>2. To agree the action plan to deliver changes required to meet the Assistant Commissioners recommendations (Appendix 3)</li> <li>3. To recommend to Cabinet that it agrees the revised RIPA guidance (Appendix 4)</li> </ol>

<b>Financial implications</b>	<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><b>Contact officer: Mark Sheldon</b></p> <p><b>Email: <a href="mailto:mark.sheldon@cheltenham.gov.uk">mark.sheldon@cheltenham.gov.uk</a>, Tel: 01242 264123</b></p>
<b>Legal implications</b>	<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><b>Contact officer: <a href="mailto:sarah.farooqi@teWKesbury.gov.uk">sarah.farooqi@teWKesbury.gov.uk</a>, 01684 272693</b></p>

<b>HR implications (including learning and organisational development)</b>	HR implications are only for those employees directly involved in dealing with surveillance ensuring that RIPA legislation is adhered to.  <b>Contact officer: donna.sheffield@cheltenham.gov.uk, 01242 774972</b>
<b>Key risks</b>	<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>
<b>Corporate and community plan Implications</b>	None
<b>Environmental and climate change implications</b>	None

## 1. Background

- 1.1** 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 by public authorities in accordance with:
- Part III of the 1997 Act
  - Parts II and III of RIPA.
- 1.2** On 26<sup>th</sup> July 2013, His Honour Norman Jones QC, Assistant Surveillance Commissioner with the Office of Surveillance Commissioners (OSC) conducted a comprehensive inspection of the Council's use and governance arrangements for conducting covert surveillance.
- 1.3** The use of covert surveillance is strictly governed by RIPA. The responsibility for the overall governance arrangements rests with the Executive Director who acts as the RIPA Senior Responsible Officer.
- 1.4** The Audit Committee recommended to Cabinet on the 20<sup>th</sup> March 2013 RIPA Guidelines to ensure that its officers comply with the legal requirements of the Regulation of Investigatory Powers Act 2000. These were approved by Cabinet on the 16<sup>th</sup> April 2013.

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

- i. the Council has made excellent and commendable progress since the last inspection in April 2010.
- ii. the Council had not used its powers under RIPA since his last report.
- iii. the Central Record of Authorisations is compliant with the requirements of the Codes of Practice but will need some additional fields to accommodate the new Magistrates' Court procedure. (recommendation)
- iv. all of the recommendations made in the April 2010 report had been implemented.
- v. there is a structured RIPA training programme in place and that it was encouraging to note that attendance at the professional sessions run in 2010 and 2012/13 were high and

included the CEO who takes an active interest in RIPA.

- vi. an active auditing system exists within the Council and at regular audits the possible unauthorised usage of covert surveillance is a subject of the review. No such activity has been identified.
- vii. each Authorising Officer is provided with an excellent folder which contains the Council's *RIPA Procedural Guide*.
- viii. because the Councils guidelines allow for the Senior Responsible Officer (SRO) to deputise for the Chief Executive who is an Authorising Officer, the RIPA guidelines are amended to nominate the SRO as an Authorising Officer, to authorise only in exceptional circumstances. (Recommendation).
- ix. the Councils RIPA Procedural Guide is a first class document which provides all the information and guidance necessary for an Authorising Officer or an applicant.
- x. the Council has made good preparation for authorisation under the recent legislation. The RIPA Procedural Guide has been amended to accommodate the provisions and a procedure is outlined for appearances before the Magistrates. The issues relating to urgency and duration, missed by most Councils, had been identified and appropriate note taken and guidance given.
- xi. the Council can barely envisage circumstances when it is likely to employ Covert Human Intelligence Sources. It has never done so but does recognise that occasionally circumstances arise when to do so is unavoidable. CBC officers have not received any training to be controllers or handlers and this should be considered for future training events. (Recommendation)
- xii. one matter that gave some concern to the Assistant Commissioner is the emphasis placed in the forward to the document on the possible usage of the non-RIPA authorisation system outlined above (recommendation)

### **3. Action Plan to Implement Recommendations**

- 3.1 The Assistant Commissioners report stated that there were 4 recommendations of a minor nature, these have been considered by the SRO and the Corporate Governance Group and an Action Plan (Appendix 3) has been put in place to ensure that the Council will do as much as possible to meet them.

### **4. Alternative options considered**

- 4.1 None

### **5. Consultation and feedback**

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

### **6. Performance management – monitoring and review**

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

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<b>Appendices</b>	<ol style="list-style-type: none"><li>1. Risk Assessment</li><li>2. OSC report</li><li>3. Action Plan</li><li>4. Revised RIPA guidance</li></ol>

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.	Borough Solicitor	20/03/2013	4	2	8	Accept	<ul style="list-style-type: none"> <li>Put in place effective internal controls to ensure compliance with guidance.</li> <li>Promote the guidance with Service managers and investigation staff.</li> </ul>	Ongoing	Borough Solicitor	

**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 3rd party / Close