
Report To:	Policy & Resources Committee	Date:	20 September 2022
Report By:	Head of Legal & Democratic Services	Report No:	LS/69/22
Contact Officer:	Martin Hughes	Contact No:	01475 712498
Subject:	Annual Update on the Regulation of Investigatory Powers (Scotland) Act 2000		

1.0 PURPOSE AND SUMMARY

1.1 For Decision For Information/Noting

1.2 The purpose of this report is to update the Committee on the use of surveillance powers by the Council under the Regulation of Investigatory Powers (Scotland) Act 2000 and to advise that it is expected the next inspection of the Council's use of these powers will be carried out in 2023 by the Investigatory Powers Commissioner's Office (IPCO).

2.0 RECOMMENDATIONS

2.1 It is recommended the Committee notes the contents of this report.

2.2 It is recommended the Committee notes the previous Council RIPSAs authorisations that were carried out in 2020 and 2021.

2.3 It is recommended the Committee notes that work is being taken forward by officers to prepare for the next IPCO inspection.

Iain Strachan
Head of Legal & Democratic Services

3.0 BACKGROUND AND CONTEXT

- 3.1 The use of surveillance to provide information is a valuable resource for the protection of the public and the maintenance of law and order. To ensure that local authorities and law enforcement agencies are able to discharge their responsibilities, use is made of unaided surveillance and surveillance devices.
- 3.2 Where this surveillance is covert i.e. the subject of the surveillance is unaware that it is taking place, then it must be authorised to ensure that it is lawful. CCTV systems in the main will not be subject to this procedure as they are “overt” forms of surveillance. However, where CCTV is used as part of a pre-planned operation of covert surveillance, then authorisation must be obtained.
- 3.3 The Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA) provides a legal framework for the use, deployment, duration and effectiveness of covert surveillance and the use of covert human intelligence sources. The Council must comply with RIPSA and adhere to the authorisation procedures specified in the Council’s RIPSA Policy and Procedure. The IPCO provides independent oversight of the use of the powers contained within RIPSA. This oversight includes inspection visits by IPCO inspectors on a 3-yearly basis.
- 3.4 Under the Council’s authorisation process, applications for directed surveillance are authorised by a restricted number of senior authorising officers. A central register of authorisations is maintained by the Head of Legal & Democratic Services who also carries out a gate-keeping role in connection with draft applications. The Council’s approved RIPSA Policy and Procedure is available on the Council website via the following link:

<https://www.inverclyde.gov.uk/law-and-licensing/freedom-of-information>

4.0 PROPOSALS

- 4.1 Since the last report to the Committee on 15 September 2020, there have been two (one in 2020 and one in 2021) uses of surveillance which were authorised under RIPSA.

2020 Application

The RIPSA application was made on 28 December 2020 by a Public Protection officer. The application related to the investigation of an alleged breach of Coronavirus regulations. This involved covert surveillance by use of social media. The application was closed on 30 December 2020 and no further action was taken forward in relation to the allegation.

2021 Application

The RIPSA application was made on 22 April 2021 by a Police Partnership officer. The application related to the protection of an elderly gentleman who had been threatened and harassed by a small group of individuals to provide monies. This involved the use of a covert camera, at the doorbell of the gentleman’s property, to obtain visual and audio recordings. The application was cancelled on 19 July 2021 and no further action was taken forward in relation to the allegations.

4.2 Currently the following officers are designated as Authorising Officers on behalf of the Council, in terms of the Scheme of Delegation (Officers), and have been trained to authorise surveillance under RIPSAs:

- Louise Long – Chief Executive
- Iain Strachan – Head of Legal and Democratic Services
- Ruth Binks – Corporate Director, Education, Communities & Organisational Development
- Alan Puckrin – Interim Director, Finance and Corporate Governance
- Stuart Jamieson – Interim Director, Environment and Regeneration
- Kate Rocks – Chief Officer, Health and Social Care Partnership

4.3 In addition to the training of Authorising Officers, separate training sessions have also been delivered to those officers who would be most likely to seek authorisation to use surveillance under RIPSAs.

4.4 RIPSAs work is overseen by the Council's cross-service Information Governance Steering Group (IGSG) and preparation for the next inspection by the IPCO is currently being addressed by the IGSG. The next inspection is expected to take place during 2023, albeit the Council has not yet received notification of this. The outcome of this inspection will be reported to the Committee as part of the next annual RIPSAs update in 2023.

5.0 IMPLICATIONS

5.1 The table below shows whether risks and implications apply if the recommendation(s) is(are) agreed:

SUBJECT	YES	NO	N/A
Financial		X	
Legal/Risk	X		
Human Resources		X	
Strategic (LOIP/Corporate Plan)		X	
Equalities & Fairer Scotland Duty			X
Children & Young People's Rights & Wellbeing			X
Environmental & Sustainability			X
Data Protection			X

5.2 Finance

There are no direct financial implications from this report.

One off Costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report	Virement From	Other Comments
N/A					

Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact	Virement From (If Applicable)	Other Comments
N/A					

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5.3 **Legal/Risk**

RIPSA provides a legal framework for authorising covert surveillance by public authorities and an independent inspection regime to monitor these activities within the United Kingdom. If RIPSA has been complied with, then any interference with an individual's privacy will be in accordance with the law. Failure to act in accordance with RIPSA could result in a complaint being raised with the Investigatory Powers Tribunal.

RIPSA regulates surveillance activity with the aim that the activity will be compliant with the European Convention of Human Rights. If RIPSA has been complied with, then any interference with any individual's privacy will be in accordance with the law.

5.4 **Human Resources**

There are no direct Human Resources implications arising from this report.

5.5 **Strategic**

There are no direct Strategic implications arising from this report.

6.0 **CONSULTATION**

6.1 The Corporate Management Team have been consulted on this report.

7.0 **BACKGROUND PAPERS**

7.1 None.