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**Report to Audit Committee**

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**Date of Meeting: 26 September 2019**

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**Subject: Regulation of Investigatory Powers (Scotland) Act 2000**

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**Report by: Strategic Director, Partnership & Performance**

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**1.0 Purpose**

- 1.1. This report updates the Committee on the outcome of a recent inspection of the Council's use of The Regulation of investigatory Powers (Scotland) Act 2000 (RIPSA) by a representative of the Investigatory Powers Commissioner's Office (IPCO), the recommendations made and the actions required following on from that.

**2.0 Recommendations**

- 2.1. The Committee is asked to:-

(1) note the outcome of the IPCO inspection, appendix A; and

(2) note there were no authorisations granted under RIPSA in 2018, and that two authorisations were granted in 2017.

**3.0 Considerations**

- 3.1. In limited circumstances, it may be necessary for Clackmannanshire Council employees, in the course of their duties, to make observations of a person in a covert manner (ie without that person's knowledge). Actions of this sort are potentially intrusive and may give rise to legal challenge. RIPSA was introduced to make sure that such surveillance was properly regulated and to ensure compliance with Human Rights legislation. There are statutory codes of practice which sit alongside the Act.
- 3.2. The Council has a RIPSA Policy in place, along with staff guidance and standard forms which require completion and authorisation by a member of the Strategic Leadership Group. It is worth noting that the Council does not use these powers on a routine basis: no authorisations were granted under RIPSA in 2018, with two granted in 2017
- 3.3. The Council is subject to an inspection on its use of RIPSA powers by an inspector from the Investigatory Powers Commissioner's Office (IPCO) every

three years. An inspection visit took place on 4 June 2019 with the ensuing report received on 25 July. The areas for improvement in broad terms cover a review of officers that can authorise surveillance, providing training to Authorising Officers (AOs), and ensuring that AOs sufficiently document justifications for use of surveillance.

#### 4.0 Sustainability Implications

4.1. None

#### 5.0 Resource Implications

5.1. *Financial Details*

5.2. The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate. Yes

5.3. Finance have been consulted and have agreed the financial implications as set out in the report. Yes

5.4. *Staffing*

#### 6.0 Exempt Reports

6.1. Is this report exempt? Yes  (please detail the reasons for exemption below) No

#### 7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities** (Please double click on the check box )

Clackmannanshire will be attractive to businesses & people and ensure fair opportunities for all

Our families; children and young people will have the best possible start in life

Women and girls will be confident and aspirational, and achieve their full potential

Our communities will be resilient and empowered so that they can thrive and flourish

(2) **Council Policies** (Please detail)

#### 8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?  
 Yes  No

**9.0 Legality**

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

**10.0 Appendices**

10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

Appendix A – Outcome of the IPCO Inspection Report

**11.0 Background Papers**

11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)  
 Yes  (please list the documents below) No

**Author(s)**

NAME	DESIGNATION	TEL NO / EXTENSION
Annette McEnaney	Senior Governance Officer	2112

**Approved by**

NAME	DESIGNATION	SIGNATURE
Lindsay Thompson	Senior Manager, Legal & Governance	
Stuart Crickmar	Strategic Director, Partnership & Performance	



**OUTCOME OF THE IPCO INSPECTION REPORT**

The key observation arising from IPCO Report was in relation to the Council’s RIPSA policy which was found to be of a good standard. The inspector acknowledged that Clackmannanshire Council takes the issue of compliance with RIP(S)A very seriously and is determined to maintain a robust management regime. Three areas were identified for improvement as set out in the table below, along with the action that has or will be taken.

<b>Recommendation</b>	<b>Action</b>
<p>The council reviews the number of posts identified to act as Authorising Officers (AOs) and once identified ensure that relevant training is delivered.</p>	<p>Consideration will be given to the number of AOs balancing the Council’s use of powers with the potential availability of the Chief Executive and 3 Strategic Directors.</p> <p>We will explore training options for AOs with neighbouring councils.</p>
<p>The individual carrying out the functions of RIP(S)A Co-ordinator and Gatekeeper receives appropriate training to carry out the role effectively.</p>	<p>A suitable training course has been identified for the individual to attend.</p>
<p>AOs ensure authorisations are made in line with the requirements of the Codes of Practice, and that they sufficiently detail in their own words why it is necessary, proportionate and what activity or conduct they are specifically authorising.</p>	<p>This will be addressed by the training provided to AOs.</p> <p>The council’s staff guidance will also be amended to provide signposts to the relevant sections of the Codes of Practice.</p>

**Conclusion**

Although the Council makes little use of RIPSA powers, it is important that we keep the RIPSA policy and associated documentation under review and ensure adequate training is in place.

