
Report to Audit & Scrutiny Committee

Date of Meeting: 27 October 2022

Subject: Regulation of Investigatory Powers (Scotland) Act 2000

Report by: Senior Manager Legal & Governance

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 actions required following on from that.

2.0 Recommendations

- 2.1. The Committee is asked to:-
- 2.1.1. note there have been no authorisations granted under RIPSA since the previous inspection; and
- 2.1.2. note, challenge and comment on the report as appropriate.

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 (i.e. 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 the Senior Leadership Group.
- 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. A remote inspection took place on 4 June 2022. Evidence was

provided by Stuart Crickmar as Senior Responsible Officer and Lee Robertson as RIPSAs Co-ordinator.

3.4. The inspection was generally positive overall, with a number of key improvement areas recommend as follows:

3.4.1. whilst covert surveillance authorisation levels remain low (there have been none since the previous inspection),, it is recommend that training is provided for all authorising officers (that is strategic directors) and the RIPSAs Coordinator;

3.4.2. that there is a requirement to raise awareness of the consequences of using the internet and social media as an investigative resource; to ensure that use (inadvertent or otherwise) of such resources is proportionate and legitimate; there is proper oversight, and that it is auditable;

3.4.3. that whilst our authority had not made use of covert human intelligence sources (CHIS) over the period, and our policy contains appropriate guidance for staff, it could be enhanced with the use of examples and direction to the appropriate sections in the Code of Practice;

3.5. The above recommendations have been accepted and steps will be taken to implement these over the coming business planning period.

4.0 Sustainability Implications

4.1. There are no direct impacts to note

5.0 Resource Implications

5.1. *Financial Details*

5.2. Any financial implications arising from this report, e.g. training, will be contained within approved budgets.

5.3. *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)

RIPSA Policy - Authorising Covert Surveillance Operations

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 Not applicable

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".
 None

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

Inspection Outcome Letter from the IPCO to the Chief Executive dated 13 June 2022

Author(s)

NAME	DESIGNATION	TEL NO / EXTENSION
Lee Robertson	Senior Manager of Legal & Governance	2087

Approved by

NAME	DESIGNATION	SIGNATURE
Stuart Crickmar	Strategic Director	

