

DATA LABEL: PUBLIC



PUBLIC & COMMUNITY SAFETY POLICY DEVELOPMENT AND SCRUTINY PANEL

REGULATION OF INVESTIGATORY POWERS – ANNUAL REPORT 2023/24

REPORT BY DEPUTE CHIEF EXECUTIVE

A. PURPOSE OF REPORT

To report on activity in 2023/24 under the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA)

B. RECOMMENDATIONS

To note the council's continuing restricted use of RIPSA powers in 2023/24.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Being honest, open and accountable
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Regulation of Investigatory Powers (Scotland) Act 2000, statutory Codes of Practice; Council Policy and Procedure
III	Implications for Scheme of Delegations to Officers	None
IV	Impact on performance and performance Indicators	None
V	Relevance to Single Outcome Agreement	N/A
VI	Resources - (Financial, Staffing and Property)	None
VII	Consideration at PDSP	Ongoing
VIII	Other consultations	Governance Manager, Chief Solicitor

D. TERMS OF REPORT

1 Background

- 1.1 The council has duties and responsibilities when undertaking certain types of surveillance in relation to the investigation of crime, public safety and the protection of public health. These are found principally in the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA). The legislation provides that in certain circumstances a formal authorisation is needed from an appropriate senior council officer before some forms of information-gathering activity can be carried out.

- 1.2 The RIPSA regime is about controlling the way public bodies use existing statutory powers. It is there to balance the public interest in enforcement against private interests and privacy rights. A RIPSA authorisation does not confer additional or wider powers on the council that it does not otherwise possess. It regulates and controls the way in which existing powers are used. It provides protection for members of the public
- 1.3 An authorisation is required for planned covert surveillance in relation to criminal activity, public health or public safety where the surveillance is designed to gather private information without the subject being aware of it. No authorisation is needed for overt surveillance, unplanned or spontaneous surveillance, or for one-off instances of information gathering or reconnaissance. A different regime applies where the council is gathering information solely as employer rather than as a public body. If officers act without an authorisation when one should have been granted then evidence gathered may be inadmissible, enforcement action may fail, and the council may suffer reputational damage.
- 1.4 The council's use of and compliance with RIPSA is overseen by the (UK) Investigatory Powers Commissioner's Office (IPCO). That oversight is carried out through annual statistical returns and triennial inspections and reports. The latest inspection was carried out in late 2022. The next inspection is due to take place in late 2025.
- 1.5 The council approved a revised RIPSA Policy on 17 September 2017, to be reviewed every three years. A revised policy was approved at Council Executive on 6 October 2020 and then again on 23 May 2023. It is supported by an internal procedure, guidance and suite of forms to help both council officers who may require authorisation and those who determine if authorisation should be granted. The policy requires an annual report to PDSP on RIPSA activity and issues relevant to the council's use of RIPSA powers.

2 Roles and responsibilities

- 2.1 The policy lists the roles and responsibilities of all officers engaged in RIPSA activity. They are reflected in the Scheme of Delegations to Officers.
- 2.2 The Senior Responsible Officer (SRO) is the Deputy Chief Executive (Corporate, Housing & Operational Services). The Authorising Officers (AO) are the Governance Manager/Monitoring Officer and the Chief Solicitor. Advice is provided when required by Legal Services.

3 Council RIPSA activity

- 3.1 Where required, authorisations are used in relation to issues such as noise nuisance, potentially criminal antisocial behaviour, trading standards, environmental health, and counter fraud investigations. These services typically use different methods of investigation and enforcement which do not engage the RIPSA regime. The fact that authorisations are not requested and given does not mean that enforcement powers are not being used. For example, investigations and surveillance carried out by council officers who are openly identified as such are not being carried out "covertly". An example of that is the recent use of CCTV surveillance in relation to fly tipping. Since warning notices about the use of cameras are used, the surveillance is "overt" and the Act is not engaged.
- 3.2 There were no authorisations sought or granted in 2023/24. The authorisations requested and granted in 2023/24 and the previous 5 years are as follows.

3.2

YEAR	REQUESTED	GRANTED
2018/19	2	2
2019/20	1	1
2020/21	0	0
2021/22	0	0
2022/23	0	0
2023/24	0	0

3.3 The annual statistical return required by IPCO in January each year was submitted on time. There are no other RIPSA-related issues to report for 2023/24.

E. CONCLUSION

This report meets the requirements of the revised Policy to report annually on the use made of the council's powers and compliance with its duties.

F. BACKGROUND REFERENCES

Public & Community Safety PDSP, 25 August 2022, 23 February 2023, 27 April 2023, 29 August 2023

Appendices/Attachments: None

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