

DATA LABEL: PUBLIC



PUBLIC & COMMUNITY SAFETY POLICY DEVELOPMENT AND SCRUTINY PANEL

REGULATION OF INVESTIGATORY POWERS – ANNUAL REPORT 2025/26

REPORT BY DEPUTE CHIEF EXECUTIVE

A. PURPOSE OF REPORT

To report on activity in 2025/26 under the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA).

B. RECOMMENDATIONS

To note the council's continuing restricted use of RIPSA powers in 2025/26 and the position in respect of the review of the council's RIPSA policy.

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 council's last triennial inspection was undertaken in 2025.
- 1.5 The council last approved a revised RIPSA Policy 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 this panel on RIPSA activity and issues relevant to the council's use of RIPSA powers. A review of the council's RIPSA policy and procedure commenced in 2025/26, to coincide with the IPCO triennial inspection.

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, fly tipping, 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 by services. 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 where CCTV surveillance has been used 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 2025/26. The authorisations requested and granted in 2025/26 and the previous 5 years are as follows.

YEAR	REQUESTED	GRANTED
2020/21	0	0
2021/22	0	0
2022/23	0	0
2023/24	0	0
2024/25	0	0
2025/26	0	0

3.3 There were no failures of compliance with RIPSA in 2025/26.

4 IPCO Inspection and Review of Council RIPSA Policy

- 4.1 The IPCO issued its report on the council's last triennial inspection on 9 June 2025. The IPCO was satisfied that assurance had been provided that the council's ongoing compliance with RISPA and the Investigatory Powers Act 2016 would be maintained. The council was asked to ensure that key compliance issues continue to receive the necessary internal governance and oversight through the Chief Executive and Senior Responsible Officer by means of: policy refreshes; annual updates to elected members; ongoing training and awareness raising; and the retention, review and destruction of any product obtained through the use of covert powers by means of Record and Product Management in accordance with the Safeguards Chapters of the relevant Codes of Practice.
- 4.2 As provided above the council has RIPSA Policy, Procedure and Guidance in place. Those documents were last reviewed and updated through committee in May 2023. The next review of those documents was noted in the Annual Governance Statement for 2025/26 as a Governance Issue to be addressed in 2025/26 to coincide with the IPCO triennial inspection. The findings of the IPCO inspector were reported to this panel in August 2025. The inspector did not propose any amendments to the council's RIPSA policy. There have been no changes to legislation since 2022/23 that require to be reflected within the Policy. The RIPSA policy and procedures have been circulated to the Corporate Governance Working group for consideration and feedback as to any required revisals. The Governance Manager has separately consulted the Chief Solicitor, in their role as Authorising Officer, and the Depute Chief Executive Corporate, Operational and Housing Services, in their role as Senior Responsible Officer. No material revisals have been identified as being required. Changes, where required, are of an administrative nature. The review will be completed following the attendance by officers at training in 2026. This will enable the provisions of the RIPSA policy to be reviewed against current best practice as advised by the training provider.
- 4.3 The council receives an annual report on RIPSA compliance and any concerns arising. That report is made to this panel in August of each year.
- 4.4 The council's Monitoring Officer separately arranges the production of a suite of annual compliance statements which sit alongside the Council's Local Code of Corporate Governance and feed into the council's annual governance statement. They deal with compliance with the law, with significant legal and regulatory regimes, and with the

council's most important corporate policies and procedures. They are prepared by responsible officers after consultation with Service Managers and Heads of Service. They take into account oversight by external regulatory and inspection bodies. They are designed to summarise compliance arrangements and bring to the attention of elected members and the public any incidents of non-compliance which are significant to the council's operations. A Local Code of Corporate Governance Annual Compliance Statement covering RIPSA activity in 2025/26, prepared by the Depute Chief Executive (Corporate, Operational and Housing Services), was considered by Governance and Risk Committee on 11 June 2026 as part of the Annual Governance Statement report. That compliance statement confirmed that there were no failures of compliance with RIPSA in 2025/26.

- 4.5 No authorisations were requested, refused or granted in 2025/26. Services continue to have alternative methods in place for investigation and enforcement which do not include covert surveillance and so do not require an authorisation. Services which may engage in covert surveillance activity for the statutory core purposes are aware of the council's legal duties and have arrangements in place to ensure compliance. There have been no incidents of activity taking place in 2025/26 where an authorisation should have been applied for. RIPSA refresher training, and ongoing awareness raising, will take place in 2026.
- 4.6 The council's approach to the retention, review and destruction of any product obtained through the use of covert powers is as set out in the council's Information Governance Policy. That is an umbrella policy with related procedures and controls which is used by all council staff for all functions. All staff are required to comply. The policy controls the creation, retention and destruction of council records; the safekeeping and sharing of personal data; and the employment of internet and social media. Below that policy sits the council's Records Management Plan, which more particularly covers retention and destruction. The retention/destruction arrangements are designed around guidance from the Scottish Council for Archives. Each Council area must have a retention schedule based on that guidance. Each service involved in the sort of activities that may lead to covert surveillance being undertaken has a retention schedule. Supporting guidance and instructions are provided to officers to assist them in complying with the associated legal requirements.
- 4.7 The IPCO advised, in its 2025 triennial inspection report, that the council's approach to the retention, review and destruction of material obtained through covert powers provides assurance of compliance with the Safeguards outlines in Chapter 9 of the relevant Codes of Practice.
- 4.8 The council's next triennial statutory inspection will be undertaken by the IPCO in 2028.

E. CONCLUSION

This report meets the requirements of the RIPSA 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

Appendices/Attachments: None

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Elaine Cook, Depute Chief Executive (Corporate, Housing and Operational Services)

Date of meeting: 25 August 2026