

ANGUS COUNCIL

SCRUTINY AND AUDIT COMMITTEE – 31 JANUARY 2023

REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000 – QUARTERLY REPORT

REPORT BY DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT

The purpose of this report is to advise members of the use of surveillance powers by the Council in terms of the Regulation of Investigatory Powers (Scotland) Act 2000 in the period 1 October 2022 to 31 December 2022.

1. RECOMMENDATIONS

The Committee is asked to:

- (i) Note that one authorisation was granted for surveillance and other investigatory activities activities regulated by the Regulation of Investigatory Powers (Scotland) Act 2000, in the period 1 October 2022 to 31 December 2022.
- (ii) Note that an annual report was considered and approved at the Policy and Resources Committee of 25 October 2022 on Policy and Guidelines on the use of covert surveillance, covert Human Intelligence Sources and surveillance through social media.

2. BACKGROUND

- 2.1 Angus Council is a public authority for the purpose of the Regulation of Investigatory Powers (Scotland) Act 2000 (“RIP(S)A”) and has the power to authorise directed covert surveillance and the use of covert human intelligence sources. Covert activities covered by RIP(S)A will be lawful if the activities are authorised and if they are conducted in accordance with the authorisation.
- 2.2 In some circumstances it is necessary for Council employees, in the course of their duties, to make observations of a person in a covert manner (without that person’s knowledge) or to instruct third parties to make such observations on the Council’s behalf. These actions are, by their very nature, potentially intrusive and may be challenged as breaching Human Rights (including the right to a fair trial, the right to respect for family and private life and the right to respect for property). RIP(S)A provides a legal framework for the carrying out of covert surveillance by public authorities.
- 2.3 RIP(S)A covers two main types of surveillance that local authorities are involved in. The first is “directed surveillance”. Directed surveillance is defined as surveillance undertaken for the purpose of a specific investigation or operation which is likely to result in obtaining private information about a person. The second is the use of a Covert Human Intelligence Source (“CHIS”). A CHIS is someone who establishes or maintains a relationship with another person with the intention of covertly obtaining information from that person.
- 2.4 Surveillance may require to be undertaken by various Council officers. For example:
 - Community Housing Team officers investigating complaints of anti-social behaviour, such as noise emanating from neighbouring properties.
 - Counter-fraud officers investigating fraudulent Housing Benefit or Council Tax Benefit claims
 - Consumer Protection officers covertly filming the activities of suspected dealers in counterfeit goods
- 2.5 Committee is specifically asked to note that the Council is not authorised to conduct intrusive surveillance under any circumstances. Intrusive surveillance is surveillance in relation to anything taking place in any private vehicle or on any residential premises but not on common areas such as common stairs and closes. Surveillance is not intrusive if it is directed into a home or private vehicle from outside of that home or vehicle unless the information provided from the surveillance

is consistently of the same quality as would be provided by having a device actually present in the home or vehicle. Therefore, activities such as filming goods being sold from the back of a car or monitoring the level of noise generated by an antisocial tenant (but not the actual words spoken by the tenant) are unlikely to be classed as intrusive.

- 2.6 Committee is asked to note an annual RIP(S)A [Report](#), [Appendix 1](#) and [Appendix 2](#) were considered and approved at the Policy and Resources Committee of 25 October 2022. The Report provided Policy and Guidelines on use of covert surveillance, covert Human Intelligence Sources and surveillance through social media, required due to Angus Council being a public authority for the purpose of RIP(S)A.

3. REPORT

In the period 1 October 2022 to 31 December 2022 one covert surveillance activity was authorised and there were no authorisations in respect of the use of a Covert Human Intelligence Source. As regards the one authorisation for covert surveillance activity, given the covert nature of why this was undertaken, details cannot be provided in this report but Members are advised that all relevant processes were followed in accordance with legal requirements and the authorised activities are conducted in accordance with the authorisation.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising directly from this report.

5. EQUALITY IMPACT ASSESSMENT

An Equality Impact Assessment is not required.

NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information), were relied on to any material extent in preparing this report.

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