

ANGUS COUNCIL

SCRUTINY AND AUDIT COMMITTEE – 25 APRIL 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 January 2023 to 31 March 2023.

1. RECOMMENDATION

It is recommended that the Scrutiny and Audit Committee:-

- (i) note that one authorisation was granted for surveillance and other investigatory activities regulated by the Regulation of Investigatory Powers (Scotland) Act 2000, in the period 1 January 2023 to 31 March 2023.

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.

3. REPORT

In the period 1 January 2023 to 31 March 2023 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 as the recommendation does not impact on people and is for information only.

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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