

## REPORT TO BUSINESS SERVICES COMMITTEE – 11 JANUARY 2024

### ANNUAL REPORT OF ACTIVITY UNDER THE REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000 POLICY

#### 1 Executive Summary/Recommendations

1.1 To advise the Committee on the use of surveillance by Aberdeenshire Council under the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA) over the previous twelve months, to note there have been no changes in legislation or notable cases on RIPSA during this period and to seek approval of the revised Policy for use in the coming year.

#### 1.2 The Committee is recommended to:

**1.2.1 Consider and comment on the annual report of activity under the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA) Policy at Appendix 1;**

**1.2.2 Note the Office of the Surveillance Commissioner Inspector's report at Appendix 2; and**

**1.2.3 Approve the revised Regulation of Investigatory Powers (Scotland) Act 2000 Policy at Appendix 3.**

#### 2 Decision Making Route

2.1 On 22 June 2017 following the outcome of an inspection by the Office of the Surveillance Commissioner (now, the Investigatory Powers Commissioner's Office) the Committee approved a revised Policy on the authorisation of surveillance under RIPSA.

2.2 The Scottish Government Code of Practice for Covert Surveillance and Property Interference calls for local authorities to have elected member oversight of any activity in connection with RIPSA. Accordingly, at its meeting on 16 November 2017 the Committee agreed to receive annual reports on RIPSA activity under the Policy in order to scrutinise the Council's use of surveillance powers and ensure compliance with the Code of Practice. Annual reports were presented and noted at the Business Services Committees on 15 November 2018, 14 November 2019, 7 January 2021, 6 January 2022 and 12 January 2023.

#### 3 Discussion

3.1 The annual report for 2022/2023 forms **Appendix 1**. It summarises the use of surveillance over the previous twelve months and details any changes in legislation or notable cases on the use of RIPSA and ensure compliance with the Code of Practice.

- 3.2 The Investigatory Powers Commissioner’s Office inspects local authorities every 3 years as part of their regular inspection cycle. This year, the Inspector reviewed the Council’s current policy, training programmes and use of the legislation since May 2020. The Report, produced at **Appendix 2**, identifies an amendment that requires to be made to the policy to clarify the procedure to be followed on cancellation of an authorisation.
- 3.3 The revised Policy is produced at **Appendix 3**. The changes from the previous policy are the change set out at 3.2 above, and an update to the list of authorised officers.
- 3.4 This Committee will continue to receive quarterly bulletins which will alert Members to any issues surrounding the policy and a further annual report will follow in January 2025.

#### **4 Council Priorities, Implications and Risk**

- 4.1 This report helps deliver the Strategic Priority “Economy Growth” within the Pillar “Our Economy”, by supporting a strong, sustainable, diverse and successful economy by scrutinising the use of surveillance by council officers of various business trading activities to ensure that they comply with the law.
- 4.2 This report helps to ensure compliance with the Regulation of Investigatory Powers (Scotland) Act 2000 and The Scottish Government Code of Practice for Covert Surveillance and Property Interference.
- 4.3 The table below shows whether risks and implications apply if the recommendations are agreed.

<b>Subject</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
Financial		<b>X</b>	
Staffing		<b>X</b>	
Equalities and Fairer Duty Scotland		X	
Children and Young People’s Rights and Wellbeing		X	
Climate Change and Sustainability		X	
Health and Wellbeing		X	
Town Centre First		X	

- 4.4 There are no staffing/financial/sustainability/children and young people’s rights and wellbeing implications arising from this report.
- 4.5 The screening section as part of Stage One of the Integrated Impact Assessment process has not identified the requirement for any further detailed assessments to be undertaken. There are no direct material outcomes from this report and the proposals do not have a differential impact on any of the protected characteristics.
- 4.6 The following Risks have been identified as relevant to this matter on a Corporate Level:

- 4.6.1 ACORP002 – Regular reporting of activity will ensure Members are advised timeously of any changes to national policy, legislation and regulation that may impact on Council policy, enabling appropriate action to be taken.
- 4.6.2 ACORP006 – Reputation Management: Failure to take action to comply with the Code of Practice and recommendations by the Office of the Surveillance Commissioner could result in the Council being criticised in future inspection reports.

## **5 Scheme of Governance**

- 5.1 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and had no comments to make and are satisfied that the report complies with the Scheme of Governance and relevant legislation.
- 5.2 The Committee is able to consider and take a decision on this item in terms of Section C.1.1.g of the List of Committee Powers in Part 2A of the Scheme of Governance as it has responsibility for Legal and Governance which in turn has responsibility for the policy on Authorisation of Surveillance under RIPSA.
- 5.3 Section 11 of the List of Committee Powers in Part 2A of the Scheme of Governance refers to Area Committees considering and commenting on proposals to amend Council policy and/or develop Council policy in line with the Policy Development and Review Framework and make recommendations to the relevant Policy Committee. However, it is suggested that no formal consultation is required to Area Committees in this case as the proposed changes to Council policy are very minor and arise from the Inspection Report. There are no impacts on communities from the changes to justify wider consultation.

**Rob Simpson**  
**Director of Business Services**

Report prepared by Robin Taylor, Senior Solicitor (Representation)  
Date: 20 December 2023

### **List of Appendices:**

- Appendix 1 – Annual Report on the use of the Regulation of Investigatory Powers (Scotland) Act (RIPSA) 2000
- Appendix 2 – Inspection Report from Investigatory Powers Commissioner’s Office dated 30 June 2023
- Appendix 3 – Revised Policy on the use of Regulation of Investigatory Powers (Scotland) Act 2000