

EAST RENFREWSHIRE COUNCILCABINET3 June 2021Report by the Chief Officer – Legal and ProcurementREGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000  
COVERT SURVEILLANCE ACTIVITY 2020-21**PURPOSE OF REPORT**

1. To notify the Cabinet on surveillance activity undertaken and authorised by the Council during 2020/21.

**RECOMMENDATION**

2. Cabinet are asked to note the use of directed surveillance and Covert Human Intelligence Sources during the period 2020/21.

**BACKGROUND**

3. The Regulation of Investigatory Powers (Scotland) Act 2000 (referred to as RIPSAs) came into effect on 2 October 2000.
4. The purpose of RIPSAs is to ensure that public authorities make only lawful use of covert surveillance and covert human intelligence sources (which together are referred to as covert surveillance in this Report). The Act regulates these activities by requiring that surveillance operations be justified and authorised by a senior officer of the Authority. Surveillance can be lawfully used if it is necessary to prevent or detect crime or prevent disorder, in the interests of public safety or for the purpose of protecting public health.
5. The Investigatory Powers Commissioner's Office oversees the regulatory framework. The Commissioner carries out regular inspections (every 3 years) of all public bodies who carry out covert surveillance in terms of the Act and makes various recommendations in relation to the procedures adopted by these bodies. East Renfrewshire Council's most recent inspection took place between October and December 2019, the findings of which were reported to Cabinet in August of last year. The next inspection is likely to be conducted in the latter part of 2022.

**USE OF RIPSAs DURING 2020/21**

6. During the period 1 April 2020 to 31 March 2021 the Council authorised directed surveillance of 6 separate targets under 3 overarching authorisations. All authorisations related to online investigations and were granted as being necessary for the prevention and detection of crime whilst one of the three was also justified under the protection of public health criterion. Two addressed sale of counterfeit goods and

copyright/trademark infringement. In these cases, surveillance was undertaken by officers of Trading Standards Scotland acting as part of national initiatives. The other authorisation permitted investigation by Council Trading Standards officers into the suspected sale of dangerous substances contrary to health regulations.

7. No use was made of Covert Human Intelligence Sources.
8. These figures reflect a decline in the use of surveillance from 2019/20 during which period 14 targets were investigated under 3 authorisations. It is considered that this drop is reflective of the effects of the pandemic during the period in question. Whilst online surveillance was still feasible, the ultimate objective of obtaining and executing warrants was hampered by the various restrictions imposed and as such fewer surveillance operations were commenced. The impact of the lockdown restrictions relative to COVID 19 is also likely to have minimised the need and worth of any physical surveillance techniques and the lack of any such surveillance activity is not therefore surprising.
9. Council services only made one application for authorisation during the year in question, again reflecting the general approach to addressing concerns by open communication with those suspected of any inappropriate behaviour and explicitly advising of any intention to monitor their situation. This transparency takes any subsequent surveillance outwith the definition of covert surveillance and makes an authorisation unnecessary. In the one case which was pursued via surveillance it was considered that an open approach to the alleged perpetrator would have resulted in evidence being destroyed and the harmful goods being rebranded in a way which would have continued to pose an ongoing risk to the public.

## **TRAINING**

10. As a result of remote working due to COVID restrictions, no face to face training of applicant or authorising officers was conducted during the period referenced in this report. Officers were however directed to online training resources which they could access at their own leisure. Further more formal training will be resumed when COVID restrictions are further relaxed and working practices allow.

## **FINANCIAL IMPLICATIONS**

11. There are no direct financial implications arising from this report.

## **RECOMMENDATION**

12. It is recommended that Cabinet notes the use of directed surveillance and Covert Human Intelligence Sources during the period 2020/21.

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