

EAST RENFREWSHIRE COUNCIL

CABINET

15 September 2022

Report by the Chief Officer – Legal and Procurement

REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000
COVERT SURVEILLANCE ACTIVITY 2021-22

PURPOSE OF REPORT

1. To notify the Cabinet on surveillance activity undertaken and authorised by the Council during 2021/22.
2. To seek Cabinet approval to the amendment of the Council's Procedure on Covert Surveillance to reflect the addition of a further authorising officer.

RECOMMENDATION

3. Cabinet are asked to:
 - a) Note the use of directed surveillance and Covert Human Intelligence Sources during the period 2021/22 and
 - b) Approve the revised Procedure on Covert Surveillance attached at Appendix 1.

BACKGROUND

4. The Regulation of Investigatory Powers (Scotland) Act 2000 (referred to as RIPSAs) came into effect on 2 October 2000.
5. 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.
6. 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 2020. The next inspection will be conducted during October 2022.

USE OF RIPSA DURING 2021/22

7. During the period 1 April 2021 to 31 March 2022 the Council authorised directed surveillance of 7 separate targets under 2 overarching authorisations. All authorisations related to online investigations and were granted as being necessary for the prevention and detection of crime whilst two were also justified under the protection of public health criterion. All 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.

8. No use was made of Covert Human Intelligence Sources.

9. These figures reflect a decline in the use of surveillance from 2020/21 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.

10. No applications were made by Council services 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.

CHANGES TO COUNCIL PROCEDURE

11. East Renfrewshire Council has been inspected six times since the introduction of the Act. All of the inspection reports found that the Council was complying with its obligations under the Act, but made certain recommendations regarding the Council's approved Procedure. These recommendations have been incorporated into the Procedure previously approved by Cabinet. In light of recent staffing changes and in particular the retirement of the Deputy Chief Executive it is now necessary to remove that post from the list of authorising officers and reallocate any functions specific to her in the Procedures to other officers. It is also considered prudent to add a further authorising officer to the list of those able to fulfil this function so as to ensure adequate availability and minimise delay to planned surveillance activities.

12. In terms of the The Regulation of Investigatory Powers (Prescription of Offices, etc. and Specification of Public Authorities) (Scotland) Order 2010, authorising officers within local authorities require to be in a post at Assistant Head of Service or Investigation Manager level or above. The Head of Education Services (School Performance and Provision) satisfies this criteria. The revised procedure is attached as Appendix 1 and reflects this proposed change in paragraph 7.3. Training will be provided to the Head of Education Services (School Performance and Provision) on the requirements of the role. This training has been tentatively scheduled for late October/early November 2022 and he will not authorise surveillance until that training has been undertaken.

TRAINING

13. 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 2021/22 although officers were directed to webinar presentations as an ongoing refresher. A training session was however commissioned by the senior Responsible Officer in June 2022 and attended by officers from services across the Council. This presentation was recorded and provided to services to cascade to any relevant members of staff who could not attend.

FINANCIAL IMPLICATIONS

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

RECOMMENDATION

15. Cabinet are asked to

- a) Note the use of directed surveillance and Covert Human Intelligence Sources during the period 2021/22 and
- b) Approve the revised Procedure on Covert Surveillance attached at Appendix 1.

Author: Mr Gerry Mahon, Chief Officer – Legal and Procurement:
Tel No: 0141 577 3801 mob:07711017084
e-mail: gerry.mahon@eastrenfrewshire.gov.uk

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***REGULATION OF INVESTIGATORY POWERS
(SCOTLAND) ACT 2000***

PROCEDURE ON COVERT SURVEILLANCE

Version 8
July 2022

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EAST RENFREWSHIRE COUNCIL

REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000

PROCEDURE ON COVERT SURVEILLANCE

1. INTRODUCTION

1.1 In some circumstances, it may be necessary for council employees, in the course of their duties, to make observations of a person or persons in a covert manner (i.e. without that person's knowledge), or to instruct third parties to do so on the Council's behalf. By their nature, actions of this sort are potentially intrusive (in the ordinary sense of the word) and may give rise to legal challenge as a potential breach of Article 8 of the European Convention on Human Rights and the Human Rights Act 1998 ('the right to respect for private and family life').

1.2 The Regulation of Investigatory Powers Act (2000) ("RIPA") and the Regulation of Investigatory Powers (Scotland) Act (2000 ("RIPSA") together provide a legal framework for authorising covert surveillance by public authorities and an independent inspection regime to monitor these activities within the United Kingdom.

1.3 The Chief Officer (Legal & Procurement) has overall responsibility within East Renfrewshire Council for monitoring compliance with the provisions of the Regulation of Investigatory Powers (Scotland) Act 2000 and acts as Senior Responsible Officer under the legislation. He shall keep and maintain the Central Register.

2. OBJECTIVE

2.1 The objective of this procedure is to ensure that all covert surveillance by council employees is carried out effectively, while remaining in accordance with other Council procedures and the law. This procedure should be read in conjunction with the relevant legislation, the Scottish Government's Codes of Practice on Covert Surveillance and Property Interference <https://www.gov.scot/publications/covert-surveillance-property-interference-code-practice/pages/1/>

and Covert Human Intelligence Sources <https://www.gov.scot/publications/covert-human-intelligence-sources-code-practice/>

(‘the Codes of Practice’) and any guidance which the Investigatory Powers Commissioner’s Office (IPCO) may issue from time to time.

2.2 If the procedures outlined in this document are not followed, any evidence acquired may not have been acquired lawfully. Such evidence may not be admissible in court, and in respect of criminal proceedings, the Procurator Fiscal may decide not to prosecute on the basis of evidence unlawfully obtained. Also, the Council may be exposed to legal challenge.

2.3 These procedures reference and link to relevant parts of the Covert Surveillance and Property Interference Code of Practice 2017 as further guidance. Both applicant and authorising officers are encouraged to access this material to maintain a thorough knowledge of best practice in relation to directed surveillance and the use of Covert Human Intelligence Sources.

3. PUBLICITY

3.1 Copies of this Policy and of the Codes of Practice are available for inspection by any person at the Council Headquarters, Eastwood Park, Giffnock and on the Council’s web site.

4. COMPLAINTS TO THE INVESTIGATORY POWERS TRIBUNAL

4.1 Any person who is aggrieved by any conduct which falls within the scope of this procedure, and which has taken place in relation to that person or to any property of that person and has taken place in challengeable circumstances, is entitled to complain to the Tribunal at the following address:-

**Investigatory Powers Tribunal,
PO Box 33220,
LONDON
SW1H 9ZQ**

5. SCOPE OF THE PROCEDURE

5.1 Subject to the exceptions identified in paragraph 5.2 below, this procedure applies in all cases where directed surveillance or the use of a covert human intelligence source is being planned or carried out.

(a) Directed surveillance is defined as “covert surveillance that is not intrusive but is carried out in relation to a specific investigation or operation in such a manner as is likely to result in the obtaining of private information about any person” [Scottish Government Code of Practice on Covert Surveillance and Property Interference 2017, para 2.4]

(b) A Covert Human Intelligence Source (CHIS) is defined as a person who establishes or maintains a personal or other relationship with another person for the covert purpose of facilitating anything that:

- (i) covertly uses such a relationship to obtain information or to provide access to any information to another person; or
- (ii) covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship.

5.2 This procedure does not apply to:-

- any disciplinary investigation or any activity involving the surveillance of employees of the Council, unless such surveillance directly relates to a regulatory function of the Council.
- ad-hoc covert observations that do not involve the systematic surveillance of specific person(s).
- observations that are not carried out covertly, or unplanned observations made as an immediate response to events.
- closed Circuit Television (CCTV) installations where there is a reasonable expectation that members of the public are aware that an installation is in place (overt surveillance). Normally this would be demonstrated by signs alerting the public to the CCTV cameras.

5.3 In cases of doubt as to whether the procedure is applicable, the authorisation procedures described below should however be followed.

6. PRINCIPLES OF SURVEILLANCE

6.1 In applying for and granting authorisations for covert surveillance, and in planning and carrying out such surveillance, East Renfrewshire Council employees shall at all times comply with the following principles:

- Effectiveness - planned covert surveillance shall be undertaken only by suitably trained or experienced employees, or under their direct supervision
- Lawful purposes - covert surveillance shall only be carried out where necessary to achieve one or more of the permitted purposes (as defined in RIPSAs), i.e. it must be:

- for the purpose of preventing or detecting crime or the prevention of disorder; and/or
 - in the interests of public safety; and/or
 - for the purpose of protecting public health.
- Necessity - covert surveillance shall only be undertaken where there is no reasonable and effective alternative way of achieving the desired objective(s). The surveillance must be necessary for one of the purposes set out above. In order to establish the necessity of any surveillance, the conduct which the surveillance is intended to detect or prevent must be clearly identified. Both the need for surveillance and the particular techniques to be used in that surveillance must be justified
 - Proportionality – the use and extent of covert surveillance shall not be excessive i.e. it shall be in proportion to the significance of the matter being investigated. Before deciding to carry out covert surveillance, proper consideration shall be given to the nature of the matter being investigated and whether it is sufficiently serious to warrant the use of covert surveillance and the particular type of covert surveillance being proposed. Consideration must also be given to the extent to which the surveillance will unnecessarily intrude on the privacy of the target of the surveillance and any others. Before deciding to carry out covert surveillance full and proper consideration will be given to any alternative methods of obtaining the information. Covert surveillance will only be authorised if these alternative methods have been discounted for good reason and the surveillance is the only reasonable way of obtaining the necessary result.

In addressing proportionality officers should:-

- Balance the size and scope of the operation against the seriousness and extent of the conduct the surveillance is intended to address
 - Ensure surveillance techniques employed will cause the least possible intrusion on the target of the surveillance and others
 - Ensure that the surveillance is, after consideration of alternatives, the only reasonable way of obtaining the necessary result
 - Describe other discounted methods of obtaining information and narrate the basis on which they were discounted
- Damage - Employees carrying out covert surveillance shall not cause damage to any property or harass any person.

- Intrusive surveillance - no activity shall be undertaken that comes within the definition of 'Intrusive Surveillance', i.e. if it involves surveillance of anything taking place on residential premises or in a private vehicle, and involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device.
- Collateral intrusion - reasonable steps shall be taken to minimise the acquisition of information that is not directly necessary for the purposes of the investigation or operation being carried out.

Authorisation - all directed surveillance or the use of a covert human intelligence source shall be authorised in accordance with the procedures described below.

6.2 When an overarching authorisation is sought in respect of a number of different individuals the key elements of necessity, proportionality and collateral intrusion must be addressed for each one in the application. This requirement also applies to any individuals added to the authorisation on review.

6.3 By its nature, covert surveillance intrudes on people's privacy. It should therefore be regarded as a final option, only to be considered when all other methods have been tried and failed, or when the nature of the suspected activity suggests that there is no other reasonable method which can be used to acquire the information.

Further guidance: Part 4 of the Covert Surveillance and Property Interference Code of Practice 2017

<https://www.gov.scot/publications/covert-surveillance-property-interference-code-practice/pages/4/>

7. SEEKING AUTHORISATION

7.1 When is Authorisation Required?

7.1.1 Authorisation is required for directed surveillance or the use of a covert human intelligence source, where any such operation is planned, is likely to record "private information" about a person or persons, and is conducted in such a manner that the person or persons subject to the surveillance are unaware that it is or may be taking place. Authorisation is required where the activity is carried out by council officers themselves or by third parties carrying out surveillance on behalf of or under the instructions of the Council.

7.2 Who May Seek Authorisation?

7.2.1 Any officer whose duties involve activity falling within the above description may seek authorisation to do so and must seek authorisation prior to carrying out any surveillance described in the paragraph headed "Scope of Procedure".

7.3 Who May Authorise?

7.3.1 Applications for directed surveillance or the use of a covert human intelligence source shall be authorised by any one of the following officers:-

Lorraine McMillan, Chief Executive,
Joe McCaig, Head of Education Services (School Provision and Performance),
Joe Abrami, Principal Solicitor, Chief Executive's Office
Julie Murray, Director of East Renfrewshire Health and Social Care Partnership
Jamie Reid, Strategic Insight & Communities Senior Manager, Business Operations & Partnerships

7.3.2 The authorising officer should not be directly involved in the investigation to which the surveillance relates. In this regard, it is expected that Applicants will typically apply to authorising officers from outwith their own service unless it is unreasonable or impractical in the circumstances to do so.

7.3.3 Where there is a significant risk of acquiring confidential material, an application shall require to be authorised by the Chief Executive or, in her absence, the Head of Education Services (School Provision and Performance).

7.3.4 When the use of a juvenile or vulnerable covert human intelligence source is sought, an application shall always require to be authorised by the Chief Executive or, in her absence, the Head of Education Services (School Provision and Performance).

8. CONFIDENTIAL MATERIAL

8.1 The Codes of Practice give the following advice in relation to what constitutes confidential material:

a. Communications subject to Legal Privilege

In Scotland, the law relating to legal privilege rests on common law principles. In general communications between professional legal advisers and their clients will be subject to legal privilege unless they are intended for the purpose of furthering a criminal act or to obtain advice thereon.

Legal privilege does not apply to communications made with the intention of furthering a criminal purpose (whether the lawyer is acting unwittingly

culpably). Legally privileged communications lose their protection if, for example, the professional legal adviser is intending to hold or use them for a criminal purpose. But privilege is not lost if a professional legal adviser is properly advising a person who is suspected of having committed a criminal offence. The concept of legal privilege applies to the provision of professional legal advice by any individual, agency or organisation qualified to do so.

b. Communications involving confidential personal information

Confidential personal information is information held in confidence relating to the physical or mental health of a person or spiritual counselling of such a person e.g. between a priest and parishioner. Such information, which can include both oral and written communications, is held in confidence if it is held subject to an express or implied undertaking to hold it in confidence or it is subject to a restriction on disclosure or an obligation of confidentiality contained in existing legislation. Examples include consultations between a health professional and a patient or information from a patient's medical records.

c. Communications involving confidential journalistic material

Confidential journalistic material includes material acquired or created for the purposes of journalism and held subject to an undertaking to hold it in confidence, as well as communications resulting in information being acquired for the purposes of journalism and held subject to such an undertaking. Journalists have a restricted right not to disclose as source of information which is regulated by section 10 of the Contempt of Court Act 1981.

d. Communications involving confidential constituent information

Confidential constituent information includes material passed confidentially between a MP or MSP and their constituent in respect of constituency matters.

Further guidance: Part 8, paragraphs 8.22 onwards of the Covert Surveillance and Property Interference Code of Practice 2017

<https://www.gov.scot/publications/covert-surveillance-property-interference-code-practice/pages/8/>

9. THE AUTHORISATION PROCESS

9.1 Directed Surveillance

Pre- application

9.1.1 Prior to seeking authorisation, the Applicant should advise the Chief Officer – Legal and Procurement (by secure e-mail) of the proposed application. The Chief Officer–Legal and Procurement will issue a Unique Reference Number

(URN) to the Applicant. This number should thereafter be inserted on the front page of all documents relating to the application.

Initial authorisation

9.1.2 Once the URN is issued, the Applicant should submit the application using Form 1 (as referred to in the Documents section of this procedure) to an appropriate authorising officer. If he or she is satisfied that the application meets the criteria outlined in Paragraph 6 above the application may be authorised.

9.1.3 The authorising officer should state explicitly in his/her own words what is being authorised (which may not be the same as that sought by the applicant) and should describe it in detail. They should record who is the subject of the surveillance, what is authorised to be done, where the surveillance can be done and during what times, the manner in which the surveillance is to be undertaken and why it is both proportionate and necessary. The person carrying out the surveillance must have a clear indication of the extent and limits of the authorisation.

9.1.4 Any difference between the authorisation and the terms of the application should be noted and explained by the authorising officer.

9.1.5 The authorising officer should sign and date the authorisation and provide a copy to the Applicant. The Authorising officer should immediately send the principal authorisation to the Chief Officer – Legal and Procurement.

9.1.6 Authorisations for directed surveillance will lapse after the expiry of three months. For practical purposes, the relevant period ends as at 2359 hours on the day preceding.

Renewal

9.1.7 If the applicant considers that surveillance remains necessary and proportionate but the expiry of the initial authorisation is imminent, they may seek renewal of the authorisation.

9.1.8 In any application for renewal, the applicant should include detail of the frequency, nature and value of surveillance undertaken to date and any evidence obtained.

9.1.9 Form 3 (as referred to in the Documents section of this procedure) should be submitted to an authorising officer in sufficient time for it to be considered prior to the expiry of the original authorisation. Renewals must be granted prior to the expiry of an existing authorisation. Renewal will be for a further period of 3 months effective from the expiry of the original authorisation.

9.1.10 The authorising officer should sign and date the renewal and provide a copy to the applicant. The principal copy should be sent immediately to the Chief Officer- Legal and Procurement.

Review

9.1.11 Authorising Officers should keep all authorisations under review and, where appropriate, cancel immediately the need for surveillance ceases. The results of all such reviews should be recorded on the appropriate review form (Form 2) , notified to the Chief Officer - Legal & Procurement and recorded in the central record of authorisations. Review dates should be directed based on the level of intrusion, collateral intrusion or likelihood of obtaining confidential material.

9.1.12 In any review, the applicant should include detail of the frequency, nature and value of surveillance undertaken to date and any evidence obtained.

9.1.13 in the case of an overarching authorisation, new subjects may be added on review. If no longer necessary or proportionate, those already subject to an authorisation may also be removed on review. In such a case the review application should indicate the reason surveillance is no longer required for that particular target, the nature of the product obtained (if any) and the benefit of the surveillance to the investigation.

Cancellation

9.1.13 Authorising officers should cancel authorisations as soon as the surveillance ceases to be necessary or proportionate. Applicants should submit Form 4 to the authorising officer for consideration when they believe such circumstances exist. An authorising officer may equally cancel an authorisation if they are in receipt of information from another source which causes them to believe that the surveillance is no longer necessary or proportionate.

9.1.14 When cancelling the authorisation the authorising officer should record the time the authorisation was cancelled and advise the applicant immediately of this fact. The reason for cancellation and the detail of the surveillance undertaken under the authorisation should be recorded. The cancellation should also include detail of the product obtained and the worth of the surveillance in the context of the investigation.

9.1.15 If relevant, the authorising officer should ensure that all surveillance equipment has been removed and should provide directions to the applicant as to how the information produced from the surveillance is to be handled.

9.1.16 The authorising officer should record whether the objectives set out in the authorisation have been met

9.1.17 Upon completion, the cancellation form should be sent to the Chief Officer – Legal and Procurement.

Further guidance: Part 5 of the Covert Surveillance and Property Interference Code of Practice 2017

<https://www.gov.scot/publications/covert-surveillance-property-interference-code-practice/pages/5/>

9.2 Covert Human Intelligence Source (CHIS)

9.2.1 A local authority may use a CHIS in two main ways. Employees of East Renfrewshire Council may themselves act as a source by failing to disclose their true identity in order to obtain information. Alternatively an employee of the Council may cultivate a member of the public or employee of a business under investigation to provide them with information on a regular basis. This person will also be acting as a source. In both cases the person or persons being investigated are unaware that this is taking place.

9.2.2 Authorisations for juvenile covert human intelligence sources will lapse after the expiry of one month. In all other cases, the authorisation for a CHIS will lapse after twelve months. For practical purposes, the relevant period ends as at 2359 hours on the day preceding.

9.2.3 Applications for authorisation for, and reviews, renewals and cancellations of, CHIS should be made and progressed using Forms referred to in the Documents section of this procedure numbered 6,7,8 and 9 respectively. The process followed shall, subject to the additional matters below, follow that as for directed surveillance.

What Additional Safeguards are Necessary before using a Covert Human Intelligence Source?

9.2.4 Prior to making an application for use of a CHIS, the Applicant should contact the Chief Officer – Legal and Procurement to discuss the appropriateness of this approach in the particular circumstances. If agreed as a suitable approach, a draft of the application should be submitted to the Chief Officer –Legal and Procurement. If the detail of the application is considered sufficient, the applicant will be provided with a URN.

9.2.5 The Applicant should submit the application to the appropriate authorising officer. When the use of a juvenile or vulnerable covert human intelligence source is sought, an application shall always require to be authorised by the Chief Executive or, in her absence, the Head of Education Services (School Provision and Performance).

Management of a CHIS

9.2.6 Before authorisation can be given, the Authorising Officer must be satisfied that suitable arrangements are in place to ensure satisfactory day to day management of the activities of a source and for overseeing these arrangements.

9.2.7 An individual officer (known as the “handler”) must be appointed to be responsible for the day to day contact between the source and the authority, including:

- Dealing with the source on behalf of the authority
- Directing the day to day activities of the source
- Recording the information supplied by the source
- Monitoring the source’s security and welfare

9.2.8 In addition the Authorising Officer must satisfy themselves that an officer (known as the “controller”) has been designated responsibility for the general oversight of the use made of the source. The names of both the handler and controller should be specified in the authorisation.

9.2.9 The Authorising Officer must also ensure that a risk assessment has been carried out to determine the risk to the source of any tasking and the likely consequences if the role of the source becomes known. Such a risk assessment is required irrespective of whether the CHIS is acting in a conventional manner or in an online capacity. It will be the responsibility of the handler of the source to highlight any concerns regarding the personal circumstances of the source which may affect the validity of the risk assessment, the conduct of the source, or the safety or welfare of the source.

9.2.10 Records must also be maintained, in accordance with the relevant statutory instruments, detailing the use made of the source. It will be the responsibility of the person in day to day control of the activities of the source to maintain the relevant records. The following matters must be included in the records relating to each source:

- (i) identity of the source and the means by which the source is referred to
- (ii) the date when and the circumstances in which the source was recruited
- (iii) the name of the person with day to day responsibility for the source and the name of the person responsible for overall oversight
- (iv) any significant information connected with the security and welfare of the source
- (iv) confirmation by the Authorising Officer that the security and welfare of the source have been considered and any risks have been fully explained and understood by the source
- (v) all contacts between the source and the local authority

- (vi) any tasks given to the source
- (vii) any information obtained from the source and how that information was disseminated
- (ix) any payment, benefit or award or offer of any payment, benefit or award or offer given to a source who is not an employee of the local authority
- (x) any relevant investigating authority other than the authority maintaining the records

Note: All officers shall conduct themselves in accordance with the requirements of the Code of Practice on Covert Human Intelligence Sources.

Use of Vulnerable Individuals as a Covert Human Intelligence Source

9.2.11 A vulnerable individual is a person who is or may be in need of community care services by reason of mental or other disability, age or illness or who is otherwise unable to take care of themselves or unable to protect themselves from significant harm or exploitation. Such individuals should not be used as a Covert Human Intelligence Source, other than in the most exceptional circumstances.

Use of a Juvenile as a Covert Human Intelligence Source

9.2.12 Special safeguards apply to the use of persons under the age of 18 as a Covert Human Intelligence Source. Children under the age of 16 must never be used to provide information against their parents or any person who has parental responsibility for them. In other cases, authorisations should not be granted unless the special provisions contained within the Regulation of Investigatory Powers (Juveniles) (Scotland) Order 2002 are satisfied. If there is any proposal to use a juvenile as a Covert Human Intelligence Source, advice must be sought from the Chief Officer – Legal and Procurement

Further guidance: Covert Human Intelligence Sources: Code of Practice <https://www.gov.scot/publications/covert-human-intelligence-sources-code-practice/>

9.3 Urgent applications

9.3.1 In urgent cases, an oral authorisation may be given. Urgent cases are those in which surveillance is undertaken in circumstances where it would not be reasonably practicable to obtain authorisation prior to the surveillance being carried out. This does not include surveillance as an immediate response to events (which does not fall within the scope of the Act and is not subject to the terms of this procedure).

9.3.2 Such authorisation may be given by any of the designated authorising officers. Both the person seeking the authorisation and the authorising officer must document an Oral Authorisation as soon as possible. An oral authorisation will expire after 72 hours in any case.

9.3.3 A case will not be considered urgent unless the time that would elapse before the authorising officer was available to grant the authorisation would, in the judgement of the person giving the authorisation, be likely to endanger life or jeopardise the investigation or operation. An authorisation will not be considered urgent because the need for the authorisation has been neglected.

9.3.4 Services wishing to adopt a more devolved authorisation process may do so only on the explicit approval of a written policy by the Council: all authorisations must remain within the scope of the Scottish Executive's guidance on authorising grades.

Further guidance: Part 5, paras 5.8-5.10 of the Covert Surveillance and Property Interference Code of Practice 2017

<https://www.gov.scot/publications/covert-surveillance-property-interference-code-practice/pages/5/>

10. RISK ASSESSMENT

10.1 Before authorising any form of covert surveillance, the authorising officer should also consider whether the proposed action will place any employee or other person at risk. If so, the authorising officer shall have regard to other council procedures already in place, and should also carry out a risk assessment of the proposed course of action before authorisation is granted. Regard must be had to the specific requirements in relation to vulnerable individuals and juveniles.

10.2 The risk assessment should take into account the impact on the employee or other person if their role in the process becomes known.

11. RETENTION AND DESTRUCTION OF SURVEILLANCE EVIDENCE

11.1 Where the product of surveillance could be relevant to pending or future criminal or civil proceedings, it should be retained for a suitable further period and its retention reviewed at a future date.

11.2 Any product obtained from surveillance should be held only for so long as is necessary to address the purpose behind the surveillance. During its retention access to the material should be restricted by both physical and technical means to those with a professional need to use it. The copying of any such product (or any extract from it or summary of it) should be minimised to that necessary for the purpose outlined in the application.

11.3 Once the purpose for which the product was obtained has been satisfied, the product should be deleted or destroyed in a secure fashion. Destruction should take place at a time and in a manner appropriate to the nature and format of the product and in accordance with the Council's Records Retention Schedule.

Further guidance: Part 8, paras 8.15-8.21 of the Covert Surveillance and Property Interference Code of Practice 2017

<https://www.gov.scot/publications/covert-surveillance-property-interference-code-practice/pages/8/>

12. INTERNET INVESTIGATIONS

12.1 A single viewing of an individual's open source social media page (such as Facebook etc.) is not automatically considered directed surveillance and as such does not generally require to be authorised provided the viewing is merely a preliminary examination of the site to establish whether it is of interest or not. If the single viewing forms part of a more extensive collection of information about the individual then a directed surveillance authorisation should be sought. Likewise, repeated viewings of the page or a systematic regime of viewing is directed and will require to be authorised as such. This is the case even though the individual has not applied privacy settings to the account which would otherwise block access. A CHIS authorisation is not generally required for such access. It will however be required in situations where a covert relationship is likely to be formed between the applicant officer and the individual (i.e. if the surveillance activity is more than mere reading of the site's content). In such a case, a risk assessment is required (see paragraph 9.2.9 above).

12.2 The use of a disguised purchaser to conclude an electronic purchase on platforms such as E-Bay/Gumtree etc. does not generally require a CHIS provided the purchase is a simple overt process. If however the applicant requires to establish a relationship with the seller in order to prompt the sale or generate a degree of trust a CHIS authorisation will be required.

12.3 Consideration should be given to the following factors in reaching a conclusion as to whether a directed surveillance authorisation is required. If the answer to any of the questions is yes it is likely that you will need to seek authorisation.

- Is the investigation or research directed towards an individual or group of people;
- Is it likely to result in obtaining private information about a person or group of people (taking account of the guidance at paragraph 3.14);
- Is it likely to involve visiting internet sites to build up an intelligence picture or profile;

- Will the information obtained will be recorded and stored;
- Will the information be likely to provide an observer with a pattern of lifestyle;
- Will the information be combined with other sources of information or intelligence, which amounts to information relating to a person's private life;
- Is the investigation or research part of an ongoing piece of work involving repeated viewing of the subject(s);
- Is it likely to involve identifying and recording information about third parties such as friends and family members of the subject of interest, or information posted by third parties such as friends or family members, which may include private information and therefore constitute collateral intrusion.

Further guidance; Part 3, paragraphs 3.5 and 3.11-3-16 of the Covert Surveillance and Property Interference Code of Practice 2017

<https://www.gov.scot/publications/covert-surveillance-property-interference-code-practice/pages/3/>

13 SECURITY AND RETENTION OF DOCUMENTS

13.1 Documents created under this procedure are highly confidential and must be treated as such. Services shall make proper arrangements for their retention, security and destruction, in accordance with the requirements of the Data Protection Act 2018, the UK General Data Protection Regulation and the Codes of Practice. It should be noted that refusals as well as approved applications must be retained. The Code of Practice recommends retention of RIPSAs records for a period of 3 years.

13.2 Documents will be inspected periodically by the Investigatory Powers Commissioner's Office (IPCO) which has statutory powers of inspection. No records should be destroyed until after they have been inspected by IPCO.

13.3 The original of every authorisation, renewal, refusal and cancellation (including the records relating to oral authorisations) must be passed to the Chief Officer - Legal & Procurement immediately after such authorisation, renewal, refusal or cancellation has been authorised. The Chief Officer - Legal & Procurement shall maintain a central register of all such forms submitted by officers for consideration under RIPSAs. In addition, each authorising officer shall maintain a register of current and past authorisations, renewals, refusals and cancellations which shall contain copies of all such completed forms.

13.4 Authorising officers shall ensure that sufficient information is provided to the Chief Officer - Legal & Procurement in order that the Central Register is kept up to date.

14 MONITORING

14.1 Directors shall carry out regular monitoring of directed surveillance and the use of covert human intelligence sources within their Department and review the investigation practices in operation. The Chief Officer - Legal & Procurement shall monitor all submitted authorisations at the time of their submission to him in order to ensure compliance with the provisions of the Regulation of Investigatory Powers (Scotland) Act 2000.

15 ADVICE

15.1 If officers are in any doubt as to whether or not an authorisation is required in respect of a proposed course of action, they should seek advice from a solicitor within Legal Services before engaging in that course of action.

CCTV

If an operator of any Council CCTV system is approached by any other employee or other agency requesting that the operator undertake Directed Surveillance using CCTV, the operator is required to obtain a written copy of a RIPSAs authorisation prior to such use. This authorisation must detail the use of a specific camera system for the purpose of directed surveillance. The authorisation must be signed by either one of the Council's Authorising Officers or in the case of the Police, an officer of at least the rank of Superintendent. In urgent cases an authorisation approved by a Police officer of at least the rank of Inspector can be accepted. A copy should be kept.

If the operator is unsure about an aspect of the procedure they should refer to the Council's code of practice for CCTV operation or seek advice from their line manager.

DOCUMENTS

This procedure uses the following **forms**, copies of which are available from Legal Services and on the intranet for use by all departments.

1. Application for Authority to Carry Out Directed Surveillance

This should be completed by the applicant in all cases. The authorisation is effective for three months from the time that approval is given.

2. Review of a Directed Surveillance Authorisation

The authorising officer should complete this on the date indicated in the original authorisation, the last review, or the renewal.

3. Application for Renewal of Directed Surveillance Authorisation

The applicant in all cases should complete this where surveillance is required beyond the previously authorised period (including previous renewals).

4. Cancellation of a Directed Surveillance

The authorising officer should complete this immediately the authorisation ceases to be either necessary or appropriate

5. Oral Record of Authorisation of Directed Surveillance

This is a record of an oral authorisation, which should be completed by the applicant. It should be used only in cases where the urgency of the situation makes the submission of a written application impractical. The original authorising officer should countersign it as soon as is practicable. This should be annexed to the formal application for authorisation.

6. Application for Authority to Use a Covert Human Intelligence Source

This should be completed when seeking to use a covert human intelligence source. The authorisation is effective for 12 months from the time approval is given.

7. Review of an Authorisation for us of a Covert Human Intelligence Source

The authorising officer should complete this on the date indicated in the original authorisation, the last review, or the renewal.

8. Application for Renewal of Authorisation for Use of a Covert Human Intelligence Source

The applicant in all cases should complete this where the use of a covert human intelligence source is necessary beyond the previously authorised period.

9. Cancellation of Use of Covert Human Intelligence Source

The authorising officer should complete this when the authorisation ceases to be either necessary or appropriate.

10. Oral Record of Authorisation of Directed Surveillance

11. Oral Authorisation of Use of a Covert Human Intelligence Source

This is a record of an oral authorisation, which should be completed by the applicant. It should be used only in cases where the urgency of the situation makes the submission of a written application impractical. The original authorising officer should countersign it as soon as is practicable. This should be annexed to the formal application for authorisation.



FOR USE BY APPLICANT

OPERATION REF:

FOR USE BY MONITORING OFFICER ONLY

UNIQUE REFERENCE NUMBER:
DATE RECEIVED BY MONITORING OFFICER:
CHECKED:**EAST RENFREWSHIRE COUNCIL****REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000****APPLICATION FOR AUTHORITY TO CARRY OUT DIRECTED SURVEILLANCE**

NAME OF APPLICANT:		JOB TITLE:	
SERVICE UNIT/ DEPARTMENT:			
FULL ADDRESS:			
CONTACT DETAILS:			
TELEPHONE:	FAX:	EMAIL:	
OPERATION NAME AND REFERENCE (IF APPLICABLE):			
NAME:		REFERENCE:	
NAME AND JOB TITLE OF INVESTIGATING OFFICER (if other than the applicant)			
1. DESCRIBE IN GENERAL TERMS THE ACTIVITY BEING INVESTIGATED			
2. DESCRIBE IN GENERAL TERMS THE CONDUCT TO BE AUTHORISED			
3. IDENTIFY THE GROUNDS ON WHICH THE DIRECTED SURVEILLANCE IS NECESSARY (tick the appropriate box)			
<ul style="list-style-type: none"> • FOR THE PURPOSE OF DETECTING CRIME OR PREVENTING DISORDER <input type="checkbox"/> • IN THE INTERESTS OF PUBLIC SAFETY <input type="checkbox"/> • FOR THE PURPOSE OF PROTECTING PUBLIC HEALTH <input type="checkbox"/> 			

4. GIVE THE IDENTITIES, WHERE KNOWN, OF THOSE INDIVIDUALS WHO ARE TO BE THE SUBJECT OF THE DIRECTED SURVEILLANCE.

NAME:

ADDRESS:

DOB:

ANY OTHER INFORMATION AS APPROPRIATE:

NAME:

ADDRESS:

DOB:

ANY OTHER INFORMATION AS APPROPRIATE:

5. STIPULATE THE NATURE OF THE SURVEILLANCE TO BE AUTHORISED. (You should include any premises or vehicles involved and any equipment to be used together with proposed numbers of staff and intended duration).

6. EXPLANATION OF THE INFORMATION WHICH IT IS HOPED TO OBTAIN AS A RESULT OF THE SURVEILLANCE

7. EXPLAIN WHY DIRECTED SURVEILLANCE IS NECESSARY IN THIS SPECIFIC CASE (You should include any other methods which have been considered as an alternative to surveillance. You must consider whether the evidence could be obtained in any other way?)

8. INDICATE ANY POTENTIAL FOR COLLATERAL INTRUSION ON PERSONS OTHER THAN THOSE TARGETED:

9. INDICATE HOW YOU PLAN TO MINIMISE ANY COLLATERAL INTRUSION:

10. INDICATE THE LIKELIHOOD OF ACQUIRING ANY CONFIDENTIAL / RELIGIOUS MATERIAL:

(NB: ONLY THE CHIEF EXECUTIVE MAY AUTHORISE SURVEILLANCE WHICH IS LIKELY TO ACQUIRE CONFIDENTIAL/RELIGIOUS MATERIAL)

11. EXPLAIN WHY THE DIRECTED SURVEILLANCE IS PROPORTIONATE TO WHAT IT SEEKS TO ACHIEVE. (You should address the scale and duration of the proposed surveillance, the seriousness of the matters being investigated, the amount of collateral intrusion likely to occur and the lack of alternative ways of acquiring the information sought.)

12. ANTICIPATED START AND DURATION:

ANTICIPATED START DATE:

EXPECTED DURATION:

NAME OF APPLICANT:		POST:	
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SIGNATURE:		DATE:	
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13. AUTHORISING OFFICER'S COMMENTS: (Comments must address why you agree that the proposed surveillance is both necessary and proportionate)

IMPORTANT: If surveillance is challenged and requires to be justified in court proceedings, these comments may be the only available aide-memoire you, as authorising officer, can refer to. Please ensure that your comments fully address why you agree the surveillance is both necessary (due to lack of alternatives) and proportionate (due to a well-planned proposal which will involve minimal collateral intrusion and where the scope, intensity and duration of the surveillance are commensurate with the seriousness of the activity being investigated).

14. DETAIL OF AUTHORISATION:

I, _____ (insert name), **HEREBY AUTHORISE THE FOLLOWING DIRECTED SURVEILLANCE OPERATION:**

Surveillance of the said (name) by (insert details of permitted surveillance mechanism including apparatus, location, duration etc)

Collateral intrusion shall be minimised by (insert details of limitations on surveillance restricting the capture of 3rd party information)

THIS WRITTEN AUTHORISATION WILL CEASE TO HAVE EFFECT ON

(insert date which is **exactly** three months from date of authorisation) **UNLESS CANCELLED EARLIER OR RENEWED:**

THE CONTINUING VALIDITY OF THIS AUTHORISATION SHALL BE SUBJECT TO REVIEW BY THE AUTHORISING OFFICER, AT THE FOLLOWING INTERVALS: (Delete as appropriate)

- **ONE WEEK (RECOMMENDED)** i.e. on the **day of** **20** (Insert date)
- **TWO WEEKS** i.e. on the **day of** **20** (Insert date)
- **LONGER THAN TWO WEEKS (SPECIFY _____)** i.e. on the **day of** **20** (Insert date)

15. REASON FOR EXTENDED REVIEW PERIOD OF GREATER THAN 2 WEEKS: (if applicable)

NAME OF AUTHORISING OFFICER:		POST:	
SIGNATURE:		DATE:	

DETAILS OF URGENT AUTHORISATIONS (Only complete if applicable)			
16. DETAILS OF WHY APPLICATION REQUIRED ORAL AUTHORISATION:			
<p>Attach a copy of the Record of Oral Authorisation</p>			
NAME OF AUTHORISING OFFICER :		POST:	
17. DETAILS OF WHY THE APPLICATION SHOULD BE AUTHORISED BY SOMEONE OTHERWISE ENTITLED TO ACT (i.e. by a Director or Head of Service from another Division or Department)			
NAME OF APPLICANT:		POST:	
SIGNATURE:		DATE:	
18. AUTHORISING OFFICER'S COMMENTS: (These must include why the authorising officer accepts that the case is sufficiently urgent to justify authorisation)			
NAME OF AUTHORISING OFFICER :		POST:	
SIGNATURE:		DATE:	

FOR USE BY APPLICANT

OPERATION REF:

FOR USE BY MONITORING OFFICER ONLY

UNIQUE REFERENCE NUMBER:
DATE RECEIVED BY MONITORING OFFICER:
CHECKED:

EAST RENFREWSHIRE COUNCIL

REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000

REVIEW OF A DIRECTED SURVEILLANCE AUTHORISATION

NAME OF APPLICANT:		JOB TITLE:	
SERVICE UNIT/ DEPARTMENT:			
FULL ADDRESS:			
CONTACT DETAILS:			
TELEPHONE:	FAX:	EMAIL:	
OPERATION NAME AND FILE REFERENCE (IF APPLICABLE):			
NAME:		FILE REFERENCE:	
DATE OF ORIGINAL AUTHORISATION:	EXPIRY DATE OF AUTHORISATION OR LAST RENEWAL:	REVIEW NUMBER:	
DATES OF PREVIOUS REVIEWS AND REVIEW NUMBER			
DATE:		REVIEW NUMBER:	
DATE:		REVIEW NUMBER:	
DATE:		REVIEW NUMBER:	
DATE:		REVIEW NUMBER:	
DATE:		REVIEW NUMBER:	
1. DESCRIBE THE ACTIVITY CARRIED OUT TO DATE UNDER THE AUTHORISATION AND SUMMARISE ANY INFORMATION/EVIDENCE OBTAINED. EXPLAIN WHY NO INFORMATION OR INSUFFICIENT EVIDENCE HAS BEEN OBTAINED.			

2. EXPLAIN WHY IT IS NECESSARY TO CONTINUE WITH DIRECTED SURVEILLANCE:

3. REVIEWING OFFICER'S COMMENTS, INCLUDING WHETHER OR NOT THE DIRECTED SURVEILLANCE SHOULD CONTINUE:

4. REVIEWING OFFICER'S STATEMENT

I, _____ (insert name), **HEREBY AGREE THAT THE GROUNDS UNDER WHICH THE AUTHORISATION FOR THIS ACTIVITY WAS ORIGINALLY GRANTED CONTINUE TO APPLY AND THAT IT IS NOT NECESSARY TO CANCEL THE AUTHORISATION AT THIS TIME.**

NAME (PRINT):		POST:	
SIGNATURE:		DATE:	
DATE OF NEXT REVIEW:		DATE AUTHORISATION EXPIRES:	

NOTE: IF THERE IS NO REVIEW SCHEDULED BEFORE AUTHORISATION EXPIRES, THE APPLICANT AND AUTHORISING OFFICER MUST CONSIDER RENEWAL OR CANCELLATION.

FOR USE BY APPLICANT

OPERATION REF:

FOR USE BY MONITORING OFFICER ONLY

UNIQUE REFERENCE NUMBER:
DATE RECEIVED BY MONITORING OFFICER:
CHECKED:**EAST RENFREWSHIRE COUNCIL****REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000****APPLICATION FOR RENEWAL OF AUTHORITY TO CARRY OUT DIRECTED SURVEILLANCE**

Please attach copies of original authorisation, previous renewals and review forms

NAME OF APPLICANT:		JOB TITLE:	
SERVICE UNIT DEPARTMENT:			
FULL ADDRESS:			
CONTACT DETAILS:			
TELEPHONE:	FAX:	EMAIL:	
OPERATION NAME AND FILE REFERENCE (IF APPLICABLE):			
NAME:		FILE REFERENCE:	
INVESTIGATING OFFICER (IF OTHER THAN THE APPLICANT) AND POSITION:			

DETAILS OF RENEWALS
1. DETAIL ANY PREVIOUS RENEWALS
(Provide the date of each renewal and the name of the authorising officer)
2. DETAIL ANY SIGNIFICANT CHANGES TO THE INFORMATION AS LISTED IN THE ORIGINAL AUTHORISATION AT THIS TIME.

3. INDICATE THE CONTENT AND VALUE TO THE INVESTIGATION OR OPERATION OF THE INFORMATION SO FAR OBTAINED BY THE DIRECTED SURVEILLANCE.

4. GIVE DETAILS OF THE RESULTS OF THE REGULAR REVIEWS OF THE INVESTIGATION OR OPERATION.

5. DETAIL THE REASONS WHY IT IS NECESSARY TO CONTINUE WITH THE DIRECTED SURVEILLANCE.

6. DETAIL WHY THE DIRECTED SURVEILLANCE IS STILL PROPORTIONATE TO WHAT IT SEEKS TO ACHIEVE.

AUTHORISING OFFICER'S COMMENTS: (Comments must address why you agree that the continuation of the surveillance is both necessary and proportionate)

IMPORTANT: If surveillance is challenged and requires to be justified in court proceedings, these comments may be the only available aide-memoire you, as authorising officer, can refer to. Please ensure that your comments fully address why you agree the surveillance is both necessary (due to lack of alternatives) and proportionate (due to a well-planned proposal which will involve minimal collateral intrusion and where the scope, intensity and duration of the surveillance are commensurate with the seriousness of the activity being investigated)

DETAIL OF AUTHORISATION

I, _____ (Insert Name), **HEREBY AUTHORISE THE FOLLOWING DIRECTED SURVEILLANCE OPERATION:**
 (insert details of the directed surveillance which is being authorised)

THIS WRITTEN AUTHORISATION WILL CEASE TO HAVE EFFECT ON

(Insert date which is three months from date of authorisation) **UNLESS CANCELLED EARLIER OR RENEWED.**

THE CONTINUING VALIDITY OF THIS AUTHORISATION SHALL BE SUBJECT TO REVIEW BY THE AUTHORISING OFFICER, AT THE FOLLOWING INTERVALS: (Delete as appropriate)

- **ONE WEEK (RECOMMENDED)** i.e. on the **day of** **20** (Insert date)
- **TWO WEEKS** i.e. on the **day of** **20** (Insert date)
- **LONGER THAN TWO WEEKS (SPECIFY)** i.e. on the **day of** **20** (Insert date)

REASON FOR EXTENDED REVIEW PERIOD OF GREATER THAN 2 WEEKS: (IF APPLICABLE)

NAME OF AUTHORISING OFFICER:		POST:	
SIGNATURE:		DATE:	

FOR USE BY APPLICANT

FOR USE BY MONITORING OFFICER ONLY

OPERATION REF:

UNIQUE REFERENCE NUMBER:
DATE RECEIVED BY MONITORING OFFICER:
CHECKED:**EAST RENFREWSHIRE COUNCIL****REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000****CANCELLATION OF DIRECTED SURVEILLANCE AUTHORITY**

NAME OF APPLICANT:		JOB TITLE:	
SERVICE UNIT/ DEPARTMENT:			
FULL ADDRESS:			
CONTACT DETAILS:			
TELEPHONE:	FAX:	EMAIL:	
OPERATION NAME AND FILE REFERENCE (IF APPLICABLE):			
NAME:	FILE REFERENCE:		
REASON(S) FOR THE CANCELLATION OF THE AUTHORISATION			
EXPLAIN THE VALUE OF THE SURVEILLANCE IN THE OPERATION			
AUTHORISING OFFICER'S STATEMENT			
I, _____ (insert name), HEREBY AUTHORISE THE CANCELLATION OF THE DIRECTED SURVEILLANCE OPERATION AS DETAILED ABOVE.			
NAME (PRINT):		POST:	
SIGNATURE:		DATE:	
DATE AND TIME WHEN AUTHORISING OFFICER INSTUCTED SURVEILLANCE TO CEASE:			
DATE:		TIME:	
DATE AND TIME APPLICANT NOTIFIED OF CANCELLATION			
DATE:		TIME:	

FOR USE BY APPLICANT

FOR USE BY MONITORING OFFICER ONLY

RIPSA DIRECTED SURVEILLANCE APPLICATION

OPERATION REF:

UNIQUE REFERENCE NUMBER:
DATE RECEIVED BY MONITORING OFFICER:
CHECKED:**EAST RENFREWSHIRE COUNCIL****REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000****RECORD OF ORAL AUTHORITY TO CARRY OUT DIRECTED SURVEILLANCE****(To be completed by Authorising Officer)**

NAME OF APPLICANT:		JOB TITLE:	
SERVICE UNIT/ DEPARTMENT:			
FULL ADDRESS:			
OPERATION NAME AND FILE REFERENCE (IF APPLICABLE):			
NAME:		FILE REFERENCE:	
1. DESCRIBE IN GENERAL TERMS THE ACTIVITY BEING INVESTIGATED			
2. DESCRIBE IN GENERAL TERMS THE CONDUCT TO BE AUTHORISED			
3. IDENTIFY THE GROUNDS ON WHICH THE DIRECTED SURVEILLANCE IS NECESSARY. (TICK THE APPROPRIATE BOX).			
<ul style="list-style-type: none"> • FOR THE PURPOSE OF DETECTING CRIME OR PREVENTING DISORDER <input type="checkbox"/> • IN THE INTERESTS OF PUBLIC SAFETY <input type="checkbox"/> • FOR THE PURPOSE OF PROTECTING PUBLIC HEALTH <input type="checkbox"/> 			

4. STIPULATE THE NATURE OF THE SURVEILLANCE AUTHORISED. (You should include any premises or vehicles involved and any equipment to be used together with proposed numbers of staff and intended duration).

5. EXPLANATION OF THE INFORMATION WHICH IT IS HOPED TO OBTAIN AS A RESULT OF THE SURVEILLANCE

6. EXPLAIN WHY YOU CONSIDER IT APPROPRIATE TO GIVE AN ORAL AUTHORISATION. (You should explain why it is considered that the case is urgent and why it is not practicable to await a formal application and authorisation. Note: a case will not be considered urgent unless the time that would elapse before the authorising officer was available to grant the authorisation would, in the judgement of the person giving the authorisation, be likely to endanger life or jeopardise the investigation or operation. An authorisation will not be considered urgent because the need for the authorisation has been neglected.)

ANTICIPATED START AND DURATION:

ANTICIPATED START DATE:

EXPECTED DURATION:

AUTHORISING OFFICER'S COMMENTS: (COMMENTS MUST ADDRESS WHY YOU AGREE THAT THE PROPOSED SURVEILLANCE IS BOTH NECESSARY AND PROPORTIONATE).

IMPORTANT: If surveillance is challenged and requires to be justified in court proceedings, these comments may be the only available aide-memoire you, as authorising officer, can refer to. Please ensure that your comments fully address why you agree the surveillance is both necessary (due to lack of alternatives) and proportionate (due to a well-planned proposal which will involve minimal collateral intrusion and where the scope, intensity and duration of the surveillance are commensurate with the seriousness of the activity being investigated).

REMEMBER: If confidential material is to be obtained the authorisation can only be signed by the chief executive unless she is absent.

AUTHORISING OFFICER'S SIGNATURE

I, _____ (insert name), **HEREBY CONFIRM THAT I GAVE ORAL AUTHORISATION TO THE FOREGOING DIRECTED SURVEILLANCE**

THIS ORAL AUTHORISATION WILL CEASE TO HAVE EFFECT ON (Insert date and time which is 72 hours from date of authorisation)

UNLESS CANCELLED EARLIER.

NAME:		POST:	
SIGNATURE:		DATE:	

IMPORTANT NOTE: A formal application for authorisation must be completed and submitted to the appropriate authorising officer as soon as possible and, in any event, within 72 hours of the oral authorisation.

FOR USE BY APPLICANT

OPERATION REF:

FOR USE BY MONITORING OFFICER ONLY

UNIQUE REFERENCE NUMBER:
 DATE RECEIVED BY MONITORING OFFICER:
 CHECKED:

EAST RENFREWSHIRE COUNCIL

REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000

APPLICATION FOR AUTHORISATION OF THE USE OR CONDUCT OF A COVERT HUMAN INTELLIGENCE SOURCE

NAME OF APPLICANT:		JOB TITLE:	
SERVICE UNIT/ DEPARTMENT:			
FULL ADDRESS:			
CONTACT DETAILS:			
TELEPHONE:	FAX:	EMAIL:	
OPERATION NAME AND REFERENCE (IF APPLICABLE):			
NAME:		REFERENCE:	
NAME AND JOB TITLE OF INVESTIGATING OFFICER (if other than the applicant)			
1. DESCRIBE IN GENERAL TERMS THE ACTIVITY BEING INVESTIGATED			
2. DESCRIBE IN GENERAL TERMS THE CONDUCT TO BE AUTHORISED			
3. IDENTIFY THE GROUNDS ON WHICH THE ACTION IS NECESSARY (tick the appropriate box)			
<ul style="list-style-type: none"> • FOR THE PURPOSE OF DETECTING CRIME OR PREVENTING DISORDER <input type="checkbox"/> • IN THE INTERESTS OF PUBLIC SAFETY <input type="checkbox"/> • FOR THE PURPOSE OF PROTECTING PUBLIC HEALTH <input type="checkbox"/> 			

4. GIVE DETAILS OF THE PURPOSE FOR WHICH THE SOURCE WILL BE TASKED OR DEPLOYED

5. WHERE A SPECIFIC INVESTIGATION OR OPERATION IS INVOLVED, GIVE DETAILS OF THAT INVESTIGATION OR OPERATION

6. GIVE DETAILS OF WHAT THE SOURCE WILL BE TASKED TO DO

7. INDICATE ANY POTENTIAL FOR COLLATERAL INTRUSION ON PERSONS OTHER THAN THOSE TARGETED

8. INDICATE HOW YOU PLAN TO MINIMISE ANY COLLATERAL INTRUSION

IMPORTANT: If surveillance is challenged and requires to be justified in court proceedings, these comments may be the only available aide-memoire you, as authorising officer, can refer to. Please ensure that your comments fully address why you agree the use or conduct of a CHIS is both necessary (due to lack of alternatives) and proportionate (due to a well-planned proposal which will involve minimal collateral intrusion and where the scope, intensity and duration of the surveillance are commensurate with the seriousness of the activity being investigated).

NOTE: Only the Chief Executive may authorise the use of a vulnerable person or a juvenile as a CHIS

14. AUTHORISING OFFICER'S RECOMMENDATION:

I, _____ (insert name), **HEREBY AUTHORISE THE USE OR CONDUCT OF A COVERT HUMAN INTELLIGENCE SOURCE FOR THE FOLLOWING PURPOSE:**
(insert details of the action which is being authorised)

The **COVERT HUMAN INTELLIGENCE SOURCE** shall be handled by (name and position) and controlled by (name and position)

THIS WRITTEN AUTHORISATION WILL CEASE TO HAVE EFFECT ON

(insert date which is twelve months (one month for juveniles) from date of authorisation) **UNLESS CANCELLED EARLIER OR RENEWED:**

THE CONTINUING VALIDITY OF THIS AUTHORISATION SHALL BE SUBJECT TO REVIEW BY THE AUTHORISING OFFICER, AT THE FOLLOWING INTERVALS: (Delete as appropriate)

- **ONE WEEK** i.e. on the **day of 20** (Insert date)
- **TWO WEEKS** i.e. on the **day of 20** (Insert date)
- **LONGER THAN TWO WEEKS** i.e. on the **day of 20** (Insert date)

15. REASON FOR EXTENDED REVIEW PERIOD OF GREATER THAN 2 WEEKS: (IF APPLICABLE)

NAME OF AUTHORISING OFFICER:		POST:	
SIGNATURE:		DATE:	

URGENT AUTHORISATIONS			
16. DETAILS OF WHY APPLICATION REQUIRED ORAL AUTHORISATION:			
NAME OF APPLICANT :		POST:	
SIGNATURE:		DATE:	
17. AUTHORISING OFFICER'S COMMENTS: (These must include why the authorising officer or the person entitled to act in their absence considered the case sufficiently urgent to justify oral authorisation)			
NAME OF AUTHORISING OFFICER :		POST:	
SIGNATURE:		DATE:	
18. DETAILS OF WHY THE APPLICATION SHOULD BE AUTHORISED BY SOMEONE OTHERWISE ENTITLED TO ACT (i.e. by a Director or Head of Service from another Division or Department)			
NAME OF APPLICANT:		POST:	
SIGNATURE:		DATE:	
19. AUTHORISING OFFICER'S COMMENTS: (These must include why the person entitled to act considered the case sufficiently urgent to justify authorisation)			
NAME OF AUTHORISING OFFICER :		POST:	
SIGNATURE:		DATE:	

FOR USE BY APPLICANT

OPERATION REF:

FOR USE BY MONITORING OFFICER ONLY

UNIQUE REFERENCE NUMBER:
DATE RECEIVED BY MONITORING OFFICER:
CHECKED:**EAST RENFREWSHIRE COUNCIL****REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000****REVIEW OF A COVERT HUMAN INTELLIGENCE SOURCE AUTHORISATION**

NAME OF APPLICANT:		JOB TITLE:	
SERVICE UNIT/ DEPARTMENT:			
FULL ADDRESS:			
CONTACT DETAILS:			
TELEPHONE:	FAX:	EMAIL:	
OPERATION NAME AND FILE REFERENCE (IF APPLICABLE):			
NAME:		FILE REFERENCE:	
DATE OF ORIGINAL AUTHORISATION:	EXPIRY DATE OF AUTHORISATION OR LAST RENEWAL:	REVIEW NUMBER:	
DATES OF PREVIOUS REVIEWS AND REVIEW NUMBER			
DATE:		REVIEW NUMBER:	
DATE:		REVIEW NUMBER:	
DATE:		REVIEW NUMBER:	
DATE:		REVIEW NUMBER:	
DATE:		REVIEW NUMBER:	
1. DESCRIBE THE ACTIVITY CARRIED OUT TO DATE UNDER THE AUTHORISATION AND SUMMARISE ANY INFORMATION/EVIDENCE OBTAINED. EXPLAIN WHY NO INFORMATION OR INSUFFICIENT EVIDENCE HAS BEEN OBTAINED.			

2. EXPLAIN WHY IT IS NECESSARY TO CONTINUE WITH USE OF THE CHIS:

Empty space for explanation of why it is necessary to continue with use of the CHIS.

3. REVIEWING OFFICER'S COMMENTS, INCLUDING WHETHER OR NOT THE USE OF THE CHIS SHOULD CONTINUE:

Empty space for reviewing officer's comments.

4. REVIEWING OFFICER'S STATEMENT

I, _____ (insert name), HEREBY AGREE THAT THE GROUNDS UNDER WHICH THE AUTHORISATION FOR THIS ACTIVITY WAS ORIGINALLY GRANTED CONTINUE TO APPLY AND THAT IT IS NOT NECESSARY TO CANCEL THE AUTHORISATION AT THIS TIME.

THE COVERT HUMAN INTELLIGENCE SOURCE SHALL CONTINUE TO BE HANDLED BY (name, post) AND CONTROLLED BY (name, post).

NAME (PRINT):		POST:	
SIGNATURE:		DATE:	
DATE OF NEXT REVIEW:		DATE AUTHORISATION EXPIRES:	

NOTE: IF THERE IS NO REVIEW SCHEDULED BEFORE AUTHORISATION EXPIRES, THE APPLICANT AND AUTHORISING OFFICER MUST CONSIDER RENEWAL OR CANCELLATION.

FOR USE BY APPLICANT

OPERATION REF:

FOR USE BY MONITORING OFFICER ONLY

UNIQUE REFERENCE NUMBER:
DATE RECEIVED BY MONITORING OFFICER:
CHECKED:**EAST RENFREWSHIRE COUNCIL****REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000****APPLICATION FOR RENEWAL OF A COVERT HUMAN INTELLIGENCE SOURCE
AUTHORISATION**

Please attach copies of original authorisation, previous renewals and review forms

NAME OF APPLICANT:		JOB TITLE:	
SERVICE UNIT DEPARTMENT:			
FULL ADDRESS:			
CONTACT DETAILS:			
TELEPHONE:	FAX:	EMAIL:	
OPERATION NAME AND FILE REFERENCE (IF APPLICABLE):			
NAME:		FILE REFERENCE:	
INVESTIGATING OFFICER (IF OTHER THAN THE APPLICANT) AND POSITION:			

DETAILS OF RENEWALS
1. DETAIL ANY PREVIOUS RENEWALS
(Provide the date of each renewal and the name of the authorising officer)
2. DETAIL ANY SIGNIFICANT CHANGES TO THE INFORMATION AS LISTED IN THE ORIGINAL AUTHORISATION AT THIS TIME.

3. INDICATE THE CONTENT AND VALUE TO THE INVESTIGATION OR OPERATION OF THE INFORMATION SO FAR OBTAINED BY USE OF THE CHIS.

4. GIVE DETAILS OF THE RESULTS OF THE REGULAR REVIEWS OF THE INVESTIGATION OR OPERATION.

5. DETAIL THE REASONS WHY IT IS NECESSARY TO CONTINUE WITH THE USE OF THE CHIS.

6. DETAIL WHY THE USE OF THE CHIS IS STILL PROPORTIONATE TO WHAT IT SEEKS TO ACHIEVE.

7. GIVE CONSIDERATION TO UPDATE OF RISK ASSESSMENT

AUTHORISING OFFICER'S COMMENTS: (Comments must address why you agree that the continuation of the use of the CHIS is both necessary and proportionate)

IMPORTANT: If the use of the CHIS is challenged and requires to be justified in court proceedings, these comments may be the only available aide-memoire you, as authorising officer, can refer to. Please ensure that your comments fully address why you agree the use of the CHIS is both necessary (due to lack of alternatives) and proportionate (due to a well-planned proposal which will involve minimal collateral intrusion and where the scope, intensity and duration of the surveillance are commensurate with the seriousness of the activity being investigated)

AUTHORDETAIL OF AUTHORISATION

I, _____ (Insert Name), **HEREBY AUTHORISE THE FOLLOWING CONTINUED USE OF THE CHIS:**
 (insert details of the use of the CHIS which is being authorised, including reference to the identity of both the handler and controller)

THIS WRITTEN AUTHORISATION WILL CEASE TO HAVE EFFECT ON

(Insert date which is twelve months (or one month in the case of a juvenile) from date of authorisation) **UNLESS CANCELLED EARLIER OR FURTHER RENEWED.**

THE CONTINUING VALIDITY OF THIS AUTHORISATION SHALL BE SUBJECT TO REVIEW BY THE AUTHORISING OFFICER, AT THE FOLLOWING INTERVALS: (Delete as appropriate)

- **ONE WEEK (RECOMMENDED)** i.e. on the **day of** **20** (Insert date)
- **TWO WEEKS** i.e. on the **day of** **20** (Insert date)
- **LONGER THAN TWO WEEKS (SPECIFY)** i.e. on the **day of** **20** (Insert date)

REASON FOR EXTENDED REVIEW PERIOD OF GREATER THAN 2 WEEKS: (IF APPLICABLE)

NAME OF AUTHORISING OFFICER:		POST:	
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SIGNATURE:		DATE:	
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FOR USE BY APPLICANT

OPERATION REF:

FOR USE BY MONITORING OFFICER ONLY

UNIQUE REFERENCE NUMBER:
DATE RECEIVED BY MONITORING OFFICER:
CHECKED:**EAST RENFREWSHIRE COUNCIL****REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000****CANCELLATION OF A COVERT HUMAN INTELLIGENCE SOURCE
AUTHORISATION**

NAME OF APPLICANT:		JOB TITLE:	
SERVICE UNIT/ DEPARTMENT:			
FULL ADDRESS:			
CONTACT DETAILS:			
TELEPHONE:	FAX:	EMAIL:	
OPERATION NAME AND FILE REFERENCE (IF APPLICABLE):			
NAME:		FILE REFERENCE:	
REASON(S) FOR THE CANCELLATION OF THE AUTHORISATION			
EXPLAIN THE VALUE OF THE SOURCE IN THE OPERATION (NOTE: DO NOT SPECIFY THE TRUE IDENTITY OF THE SOURCE)			
AUTHORISING OFFICER'S STATEMENT			
I, _____ (INSERT NAME), HEREBY AUTHORISE THE CANCELLATION OF THE USE /CONDUCT OF A COVERT HUMAN INTELLIGENCE SOURCE AS DETAILED ABOVE.			
NAME (PRINT):		POST:	
SIGNATURE:		DATE:	
DATE AND TIME WHEN AUTHORISING OFFICER INSTRUCTED USE/CONDUCT OF A COVERT HUMAN INTELLIGENCE SOURCE TO CEASE:			
DATE:		TIME:	
DATE AND TIME APPLICANT NOTIFIED OF CANCELLATION			
DATE:		TIME:	

FOR USE BY APPLICANT

OPERATION REF:

FOR USE BY MONITORING OFFICER ONLY

UNIQUE REFERENCE NUMBER:
DATE RECEIVED BY MONITORING OFFICER:
CHECKED:**EAST RENFREWSHIRE COUNCIL****REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000****RECORD OF ORAL AUTHORITY FOR THE USE OF OR CONDUCT OF A COVERT
HUMAN INTELLIGENCE SOURCE****(To be completed by Authorising Officer)**

NAME OF APPLICANT:		JOB TITLE:	
SERVICE UNIT/ DEPARTMENT:			
FULL ADDRESS:			
OPERATION NAME AND FILE REFERENCE (IF APPLICABLE):			
NAME:		FILE REFERENCE:	
3. DESCRIBE IN GENERAL TERMS THE ACTIVITY BEING INVESTIGATED			
4. DESCRIBE IN GENERAL TERMS THE CONDUCT TO BE AUTHORISED			
3. IDENTIFY THE GROUNDS ON WHICH THE USE OF A CHIS IS NECESSARY (Tick the appropriate box).			
<ul style="list-style-type: none"> • FOR THE PURPOSE OF DETECTING CRIME OR PREVENTING DISORDER <input type="checkbox"/> • IN THE INTERESTS OF PUBLIC SAFETY <input type="checkbox"/> • FOR THE PURPOSE OF PROTECTING PUBLIC HEALTH <input type="checkbox"/> 			

4. STIPULATE THE NATURE OF THE SURVEILLANCE AUTHORISED (You should include any premises or vehicles involved and any equipment to be used together with proposed numbers of staff and intended duration).

5. EXPLANATION OF THE INFORMATION WHICH IT IS HOPED TO OBTAIN AS A RESULT OF THE USE OF THE CHIS

6. EXPLAIN WHY YOU CONSIDER IT APPROPRIATE TO GIVE AN ORAL AUTHORISATION (You should explain why it is considered that the case is urgent and why it is not practicable to await a formal application and authorisation. Note: a case will not be considered urgent unless the time that would elapse before the authorising officer was available to grant the authorisation would, in the judgement of the person giving the authorisation, be likely to endanger life or jeopardise the investigation or operation. An authorisation will not be considered urgent because the need for the authorisation has been neglected.)

ANTICIPATED START AND DURATION:

ANTICIPATED START DATE:

EXPECTED DURATION:

AUTHORISING OFFICER'S COMMENTS: (COMMENTS MUST ADDRESS WHY YOU AGREE THAT THE PROPOSED USE OF A CHIS IS BOTH NECESSARY AND PROPORTIONATE)

IMPORTANT: If surveillance is challenged and requires to be justified in court proceedings, these comments may be the only available aide-memoire you, as authorising officer, can refer to. Please ensure that your comments fully address why you agree the surveillance is both necessary (due to lack of alternatives) and proportionate (due to a well-planned proposal which will involve minimal collateral intrusion and where the scope, intensity and duration of the surveillance are commensurate with the seriousness of the activity being investigated).

REMEMBER: If confidential material is to be obtained the authorisation can only be signed by the Chief Executive unless she is absent. IF THE CHIS IS A JUVENILE OR VULNERABLE ADULT ONLY THE CHIEF EXECUTIVE MAY AUTHORISE

AUTHORISING OFFICER'S SIGNATURE

I, _____ (insert name), **HEREBY CONFIRM THAT I GAVE ORAL AUTHORISATION TO THE FOREGOING USE OR CONDUCT OF A CHIS**

THIS ORAL AUTHORISATION WILL CEASE TO HAVE EFFECT ON (Insert date and time which is 72 hours from date of authorisation)

UNLESS CANCELLED EARLIER.

NAME:		POST:	
SIGNATURE:		DATE:	

IMPORTANT NOTE: A formal application for authorisation must be completed and submitted to the appropriate authorising officer as soon as possible and, in any event, within 72 hours of the oral authorisation.

