

Agenda Item	8
Report No	AS/20/21

HIGHLAND COUNCIL

Committee: AUDIT AND SCRUTINY

Date: 23 September 2021

Report Title: **Regulation of Investigatory Powers (Scotland) Act**

Report By: Head of Corporate Governance

1. Purpose/Executive Summary

1.1 This is a report to advise members on the Council's use of the powers within the Regulation of Investigatory Powers (Scotland) Act since January 2020.

2. Recommendations

2.1 Members are asked to:

- I. Note the Council continues to be a modest user of the powers and that a further report will be forthcoming to the February 2022 meeting.

3. Implications

3.1 Resource:

There are no resource implications arising directly from this report.

3.2 Legal:

There are no direct legal implications arising from the report. The Council continues to follow the terms of its policies and procedures to ensure compliance with the Act.

3.3 Community (Equality, Poverty and Rural) and Gaelic :

No implications are envisaged from this report.

3.4 Risk:

There are no risks to be identified arising from this report.

4. Background

- 4.1 On occasion Highland Council officials will require to conduct covert surveillance including the use of covert human intelligence sources, as part of their Council duties. This would be principally for the purposes of detecting crime or the prevention of disorder, ensuring public safety, or protecting public health. All such activity is regulated by and authorised through the Regulation of Investigatory Powers (Scotland) Act 2000.
- 4.2 The Council's use of these powers is subject to regular external scrutiny through independent inspection of the Council's arrangements which is undertaken by the Investigatory Powers Commissioner's Office. The last inspection took place in July 2020 and the accompanying Inspection report was reported to the 24 September 2020 meeting of this Committee
- 4.3 Recent inspection reports and the Covert Surveillance & Property Interference Code of Practice have recommended that the Council should report on the use of the powers contained in the 2000 Act to members on a regular basis to ensure that the powers are being used consistently with the local authority's policy and that the policy remains fit for purpose

5. The Council's Use of RIPSA Powers

- 5.1 Historically the Council has been described as a modest user of its RIPSA powers and the various inspections have acknowledged the value of the policies and procedures that the Council has in place. In the 2020 Inspection Report the Council's revised Policy and Authorisation Procedure on Covert Surveillance and Covert Human Intelligence Sources was found to be easily understood with signposting to recent Codes of Practice.
- 5.2 The purpose of this Report is to inform members upon the Council's use of its RIPSA powers since January 2020. For information in 2019 nine authorisations for Directed Surveillance were granted and one for the use of a Covert Human Intelligence Source.
- 5.3 In the period from 2020 and reflecting the impact of the pandemic the Council has granted three authorisations. No applications have been refused.
- 5.4 The three authorisations comprised two for Directed Surveillance and one for the use of a Covert Human Intelligence Source (CHIS)
- 5.5 As in previous years the applications were made by the Council's Trading Standards Service. Typically the officers will have been undertaking an investigation into the alleged underage sale of age restricted products, the alleged sale of counterfeit goods or into the illegal supply of goods and services

Designation: Head of Corporate Governance

Date: 10 September 2021

Stewart Fraser, Head of Corporate Governance