

REPORT TO: POLICY AND RESOURCES COMMITTEE ON 12 MAY 2015

SUBJECT: REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000 AND REGULATION OF INVESTIGATORY POWERS ACT 2000

**BY: CORPORATE DIRECTOR (CORPORATE SERVICES) AND
ACTING CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,
PLANNING AND INFRASTRUCTURE)**

1. REASON FOR REPORT

- 1.1 To invite the Committee to note the use made of covert surveillance by Council employees in the course of their duties for the year to 31 March 2015 and the acquisition of communications data by Council employees in the course of their duties for the year to 31 December 2014;
- 1.2 This report is submitted to Committee in terms of Section III (A) (53) of the Council's Administrative Scheme relating to review of Council wide policy.

2. RECOMMENDATION

- 2.1 **It is recommended that the Committee consider and note the use of covert surveillance by Council employees in the course of their duties for the year to 31 March 2015 and the acquisition of communications data by Council employees in the course of their duties for the year to 31 December 2014 for information purposes only.**

3. BACKGROUND

Covert Surveillance

- 3.1 A report was submitted to this Committee on 27 April 2010 (para 7 of the Minute refers) regarding a revised policy for the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA). The Committee approved the revised policy and decided, as surveillance is such a sensitive issue, that an annual report on the use of surveillance by Council employees in the course of their duties be submitted. Annual reports provide information to 31 March in any given year to tie in with the statistical return period used by the Office of the

Surveillance Commissioner. This is the annual report for the year to 31 March 2015.

- 3.2 As regards directed surveillance, 8 authorisations were granted during the year to 31 March 2015 but none were in force at the end of the year. These related to investigations into the sale of counterfeit goods, the illegal sale of cigarettes / tobacco and age related sales of cigarettes.
- 3.3 In relation to the use of covert human intelligence sources (CHIS), 9 were used during the year to 31 March 2015, use ceased to be made of all 9 during the same year leaving none being used at the end of the year. These related to investigations into the sale of counterfeit goods and the illegal sale of cigarettes /tobacco.
- 3.4 Seven investigations required authorisations for both directed surveillance and use of CHIS.
- 3.5 In relation to breaches in procedures, there were no significant breaches in procedure and minor breaches were addressed by addressing the issue with the authorising officer. However, it was noted that the majority of authorising officers had never authorised applications and lacked experience. A revised list of authorising officers reducing the number of authorising officer to 4 officers to address this issue was approved by this Committee on 17 February (Paragraph 6 of the Minute refers). In addition, a RIPSAs training event was organised and took place in Elgin on 12 December 2014. Further training will be sourced as necessary.

Communications Data

- 3.6 A report was submitted to this Committee on 12 March 2013 (para 9 of the Minute refers) regarding a revised policy for accessing communication data in terms of the Regulation of Investigatory Powers Act 2000 (RIPA). The Committee approved the revised policy and decided that an annual report on the acquisition of communications data by Council employees in the course of their duties be combined with the report on the use of surveillance under the Regulation of Investigatory Powers (Scotland) Act 2000. Annual reports provide information to 31 December in any given year to tie in with the statistical return period used by the Interception of Communications Commissioner Office.
- 3.7 In the year to 31 December 2014 there were no notices requiring disclosure of communications data; there were no authorisations of conduct to acquire communications data; no applications submitted to a Designated Person were rejected; and no authorisations or notices were processed via the National Anti-Fraud Network.

4. SUMMARY OF IMPLICATIONS

(a) Moray 2023: A Plan for the Future/Service Plan/Health and Social Care Integration

The use of investigatory powers, where appropriate, contribute towards National Outcome 9 – we live our lives safe from crime, disorder and danger. There are no implications.

(b) Policy and Legal

The policies enables the Council to ensure appropriate checks and balances in terms of RIPSA and RIPA are in place within Moray thereby ensuring that covert surveillance activities and acquisition of communications data is conducted in an efficient and proportionate manner and in accordance with the legislation.

(c) Financial implications

There is no direct financial implications arising from this report .

(c) Risk Implications

None.

(e) Staffing Implications

None.

(f) Property

None.

(g) Equalities

There are none because the recommended actions do not affect people.

(h) Consultations

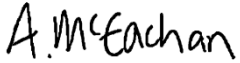
None.

5. CONCLUSION

5.1 The report details the use made of covert surveillance by Council employees in the course of their duties for the year to 31 March 2015 and the acquisition of communications data by Council employees in the course of their duties for the year to 31 December 2014 and invites the Committee to consider and note the report received from the Interception of Communications Commissioners Office.

Author of Report: Morag Smith, Senior Solicitor (Litigation and Licensing) and Peter Adamson, Trading Standards Manager

Background Papers: None
Ref:

Signature:  Date: 24 April 2015

Name: Alasdair McEachan Designation: Acting Head of Legal and Democratic Services

Signature:  Date: 29 April 2015

Name: Jim Grant Designation: Head of Development Services