

ABERDEEN CITY COUNCIL

COMMITTEE	Audit, Risk and Scrutiny Committee
DATE	19 February 2026
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Use of Investigatory Powers – Annual Report 2025
REPORT NUMBER	CORS/26/032
EXECUTIVE DIRECTOR	Andy MacDonald
CHIEF OFFICER	Jenni Lawson, Chief Officer - Governance
REPORT AUTHOR	John Forsyth
TERMS OF REFERENCE	5.2

1. PURPOSE OF REPORT

- 1.1 To provide Elected Members with an overview of the Council's use of investigatory powers during 2025, particularly focussing on the Committee's role in respect of assurance. Further, Committee is being asked to confirm that the Use of Investigatory Powers Policy is fit for purpose.

2. RECOMMENDATIONS

That Committee -

- 2.1 Notes the overview of the council's use of investigatory powers during the calendar year 2025, as set out in this report; and
- 2.2 Agrees that the Use of Investigatory Powers Policy Remains fit for purpose.

3. CURRENT SITUATION

- 3.1 The Council has powers under the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA), and Investigatory Powers Act 2016 (IPA) to use different investigatory techniques. RIPSA provides a legal framework for covert surveillance by public authorities, an independent inspection regime to monitor these activities and sets out a process for the authorisation of covert surveillance by designated officers. It further provides for the duration of that authorisation and for the review, renewal or termination of authorisations.
- 3.2 RIPSA gives the Council powers to conduct two types of covert surveillance:
- 3.2.1 Directed Surveillance. This is covert surveillance in places other than residential premises or private vehicles.
- 3.2.2 Use of Covert Human Intelligence Sources (CHIS). This is the use of undercover officers.
- 3.3 This Committee has had oversight of covert surveillance activity conducted under RIPSA since 2017 and regularly receives and reviews reports on its use.

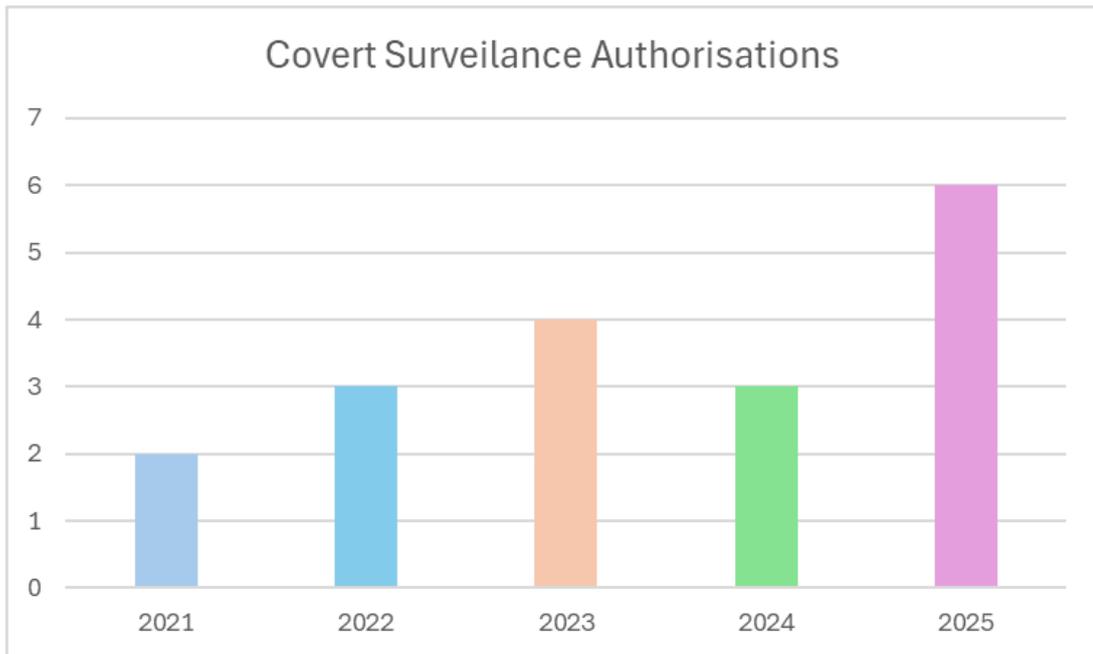
- 3.4 The IPA permits the Council to acquire Communications Data for certain purposes. Communications data is the way in which, and by what method, a person or thing communicates with another person or thing. This includes telephone and internet communications. The IPA sets out the processes and authorisations required for the Council to acquire Communications Data. This is supplemented by the Home Office Data Code of Practice.
- 3.5 The Investigatory Powers Commissioner (IPCO) has oversight of both RIPSAs and IPA. Accordingly, IPCO also has oversight of the Council's use and management of the powers granted by these pieces of legislation. IPCO regularly inspects public authorities, including the Council.
- 3.6 The last IPCO inspection of the Council took place in September 2023. This inspected the Council's compliance with RIPSAs and IPA. The inspection concluded positively and noted that IPCO was satisfied with the Council's ongoing compliance. The next IPCO inspection is expected later this year.

Use of Investigatory Powers Policy

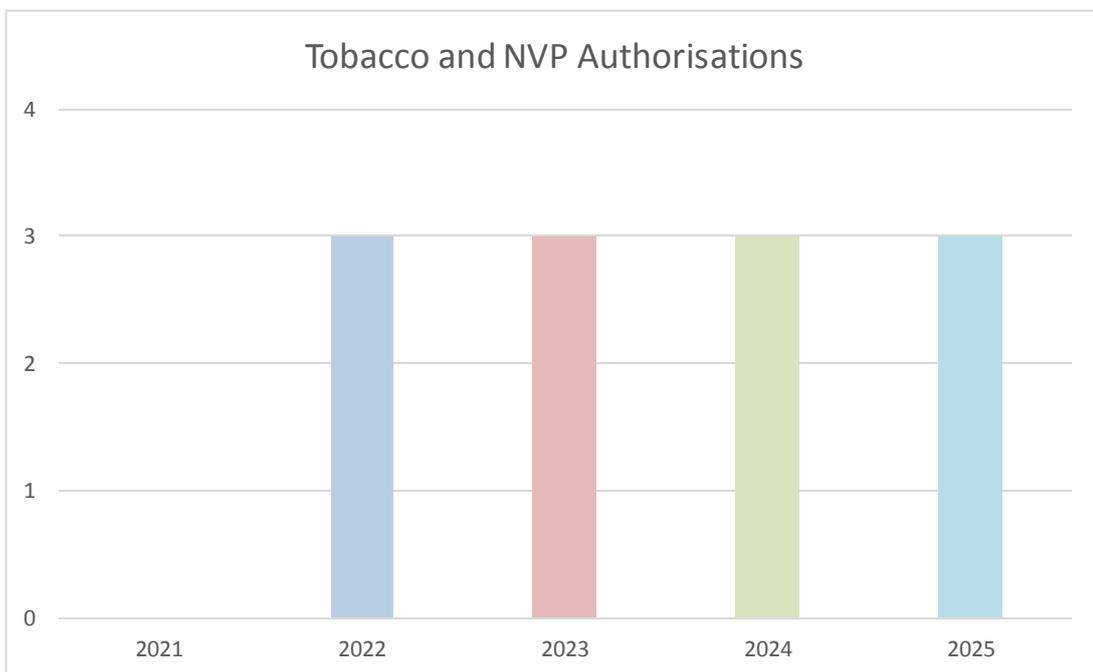
- 3.7 This Committee approved the Council's Use of Investigatory Powers Policy in December 2021. This Committee agreed that this Policy remained fit for purpose in February 2025. This policy governs compliance with both RIPSAs and the IPA. It remains a mandatory requirement that all members of staff wishing to use investigatory powers must undertake training prior to being able to make an application to use such investigatory powers.
- 3.8 This Committee is asked every year to confirm that the Use of Investigatory Powers Policy remains fit for purpose. There have been no substantive changes to the Use of Investigatory Powers Policy since the Policy was reviewed last year. The IPCO were content with the policy at the last inspection. The Policy is supported by a number of operational procedures, which are kept under regular review.
- 3.9 The Team Leader, Regulatory and Compliance, Legal Services, as the Council's RIPSAs Co-Ordinator has reviewed the Policy and confirms that, in her professional opinion, the Policy remains fit for purpose.

Applications for Covert Surveillance

- 3.12 There were six Covert Surveillance authorisations during 2025. As highlighted in the graph below, this represents an increase in the number of authorisations when compared to the previous five years. These applications are broken down in more detail below.



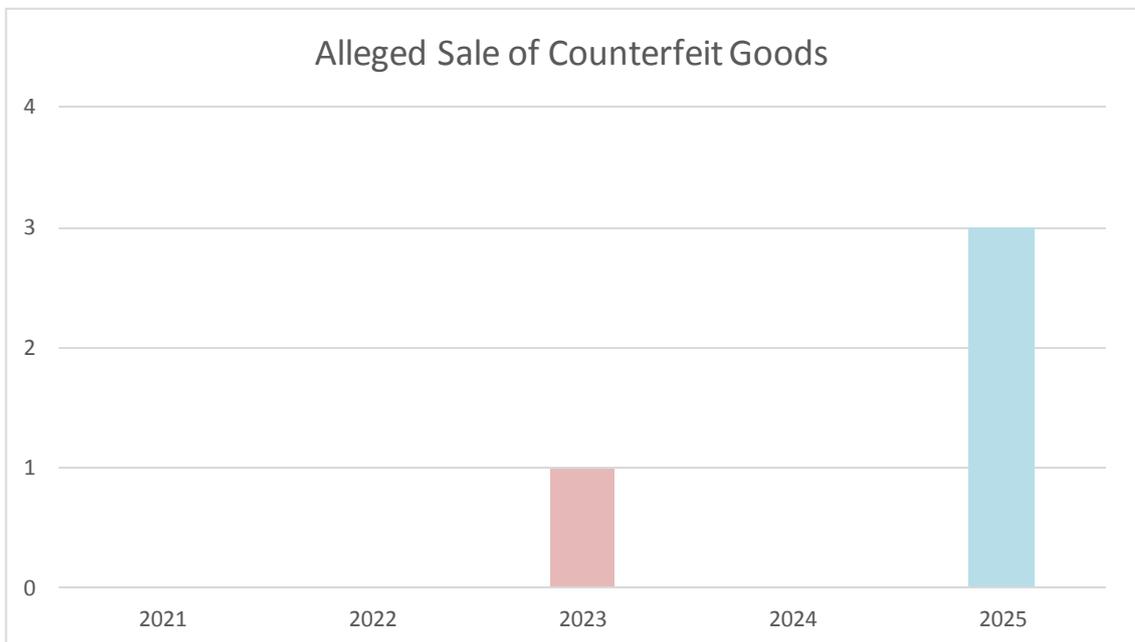
3.14 Three of these authorisations related to the test purchasing of Tobacco and Nicotine Vapour Products (NVPs). As demonstrated below, the number of such authorisations has remained steady following emergence from COVID related lockdowns in 2021. These operations are a normal part of the work of the Protective Services team.



3.15 These three applications relating to test purchases of Tobacco and Nicotine Vapour Products again allowed the Protective Services team to significantly exceed their Scottish Government targets. The team is expected to, each year, attempt test purchases at 10% of premises registered to sell tobacco products

and 10% of premises selling nicotine vapor products. This resulted in a target, for 2025, of fifteen premises for tobacco and nineteen for nicotine vapor products. The authorisations allowed the Team to undertake fifteen test purchases for tobacco and to undertake thirty-nine test purchases for nicotine vapour products. This means that the Team has, as in previous years, significantly exceeded their target numbers. The focus on nicotine vapour products is driven by intelligence.

3.16 The remaining three authorisations related to different operations to investigate the alleged sale of counterfeit goods. Two of these authorisations were for directed surveillance, with the third being for the use of a Covert Human Intelligence Source (CHIS). As is shown below, this represents an increase in the number of such authorisations. The operations these authorisations relate to are driven by received intelligence, so it is normal to see the numbers rise and fall in different years.

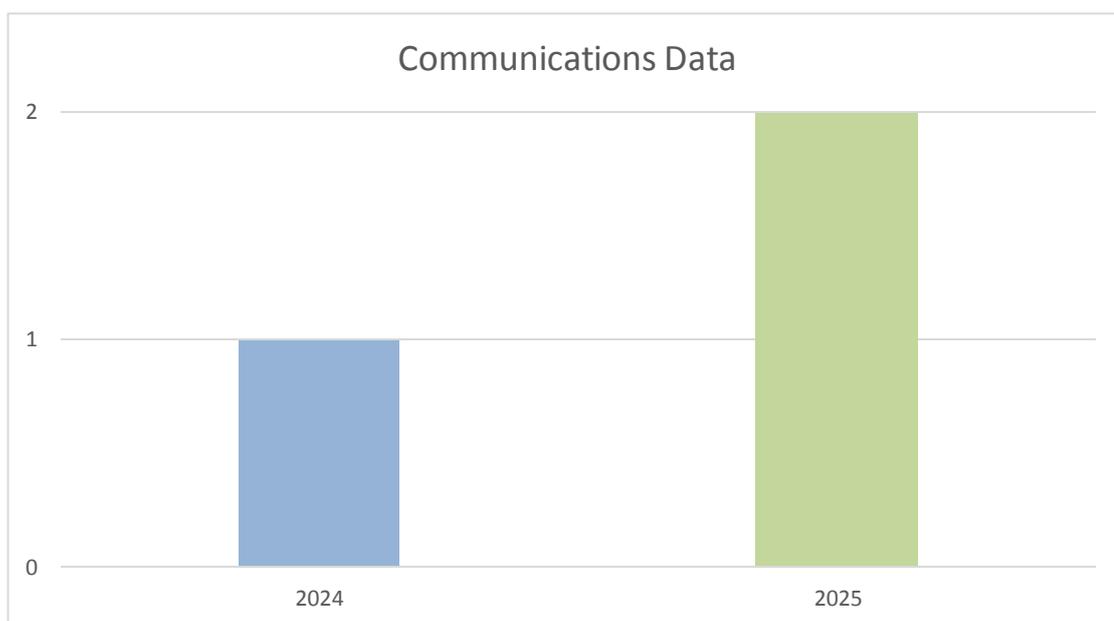


3.17 As noted above, one of these authorisations was for the use of a Covert Human Intelligence Source. A CHIS is a person who establishes or maintains a relationship with someone in order to covertly obtain information, to provide another person with access to information or to disclose information. This essentially covers the use of undercover officers.

3.18 This authorisation was the first authorisation for the use of a CHIS in a number of years. As with all covert surveillance, any application for the authorisation for the use of a CHIS is driven by the operational needs of the service applying for that authorisation.

IPA

- 3.19 There were two applications made in 2025 for the acquisition of communications data. One application was granted. The other was rejected because it was considered that the data sought was not recoverable. Both of these applications related to investigations into the alleged sale of illicit or counterfeit tobacco.
- 3.20 These two applications represent a slight increase on 2024, when one application was made. 2024 which was the first time the Council had acquired communications data in a significant period. As was reported to this Committee in the annual report relating to 2024, an increase in the number of applications for communications data was anticipated over 2025 and beyond.



- 3.21 The Council maintains the ability to acquire communications data under the IPA. Should there be an operational requirement in the coming year, officers remain able to make an application the acquisition of communications data.

Authorising Officers

- 3.22 There continue to be four Authorising Officers in post. Authorising officers are responsible for authorising applications for the use of investigatory powers by Council officers. These Authorising Officers have been appropriately trained and operate on a rota basis.

Training

- 3.23 Training has been provided on an ongoing basis to Authorising Officers and to those officers who might apply for an authorisation. A bespoke training session was provided to a new Authorising Officer at the time of their appointment. This ensured that they were ready to take up their duties. In addition, a training

session was provided to all relevant officers on the use of a CHIS and the legal framework surrounding this area and the PowerPoint slides were uploaded to the restricted online portal to which all trained officers have access. Additional training will be provided throughout 2026 as is required.

Workplan 2026

- 3.24 The intended main focus of 2026 is to engage with services to understand how the ever-increasing usage of social media is impacting on operations and investigations. Work will then be undertaken to ensure that the processes in place under the policy are adaptative and flexible enough to support any necessary operations.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising from the recommendations in this report.

5. LEGAL IMPLICATIONS

- 5.1 The Scottish Government Code of Practice on Covert Surveillance sets an expectation that elected members review and monitor the use of RIPSAs on a quarterly basis. This is also a matter which is taken into account by the IPCO when they carry out their inspections.

- 5.2 The Home Office Code of Practice on Communications Data states that any public authority wishing to acquire Communications Data must have regard to the Code and that there should be a robust process in place for accessing such data which should be overseen by the Senior Responsible Officer.

- 5.3 Annual and quarterly reporting of the Council's use of investigatory powers to Elected Members provides assurance that the Council's use of such powers is being used consistently and that the standards set by its policy remain fit for purpose.

- 5.4 It is recommended as good practice, under paragraph 4.43 of the Scottish Government's Code of Practice for Covert Surveillance and Property interference, that elected members consider a statement on the Council's Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA) policy and statistical information on relevant activity on an annual basis.

- 5.5 The Council's management, knowledge and awareness of those involved with RIPSAs activity has been commended by the IPCO in previous inspections. Officers hope that reporting on the use of investigatory powers more broadly, enhances transparency and provides another level of scrutiny and assurance on the use of these powers.

6. ENVIRONMENTAL IMPLICATIONS

- 6.1 There are no direct environmental implications arising from the recommendations in this report.

7. RISK

7.1 The assessment of risk contained within the table below is considered to be consistent with the Council's risk appetite statement.

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H) *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
Strategic Risk	None identified		L	Yes
Compliance	That the Council's use of investigatory powers is not legally compliant.	<p>This report sets out the methods by which Members can take assurance that the use of these powers is legally compliant.</p> <p>This committee receives quarterly and annual reports on the use of investigatory powers and policies and undertakes scrutiny thereof.</p> <p>This report also fulfils the requirement in para 4.4.3 of the Scottish Government's Code of Practice for Covert Surveillance and Property Interference.</p>	L	Yes
Operational	Employees are not suitably trained for surveillance work. Failure to report to and update Committee on	<p>Appropriate and mandatory training arms staff with the correct skills to carry out surveillance and thus, there is little to no risk to staff. All requests for training are met. Reporting to Committee occurs quarterly on surveillance activity.</p>	L	Yes

	surveillance activity means that it would undermine public confidence in the Council and how it operates.			
Financial	None identified		L	Yes
Reputational	Failure to update Committee on RIPSAs activity would mean that the Council would be at risk of reputational damage when identified in an IPCO inspection.	External inspections on RIPSAs activity operate every 3-4 years. This provides external assurance to the Committee of the Council's compliance with RIPSAs. Further, whilst there is no requirement to report to Committee about the Council's use of Communication Data, the broader reporting of both demonstrates the Council's wish to be transparent about its use of such powers. The Inspection Report is shared with Committee and an Action Plan created (where necessary) and is endorsed and approved by Committee.	L	Yes
Environment / Climate	None identified		L	Yes

8. OUTCOMES

<u>Local Outcome Improvement Plan 2016-2026</u>	
Prosperous Economy Stretch Outcomes	Whilst the recommendations of this report are for noting, the use of investigatory powers by the Council as an investigatory tool may have an impact on the economy as a result of enforcement action taken by services such as Trading Standard, e.g.

	such as in enforcing the law around counterfeit goods.
Prosperous People Stretch Outcomes	Enforcement activity undertaken by the Council by using, where appropriate, its powers under the IPA and RIPSA, may have an impact on this by tackling the selling of counterfeit goods.

9. IMPACT ASSESSMENTS

Assessment	Outcome
Integrated Impact Assessment	No assessment required. I confirm this has been discussed and agreed with Jenni Lawson, Chief Officer – Governance on 16 January 2026.
Data Protection Impact Assessment	Not required.
Other	There are no other impact assessments relevant to this report.

10. BACKGROUND PAPERS

10.1 Use of Investigatory Powers Policy

11. APPENDICES

12. REPORT AUTHOR CONTACT DETAILS

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