

**Covert Surveillance  
Report by Executive Director Place**

**Report for Noting**

**1 Recommendations**

Council is invited to note the terms of this report.

**2 Purpose of Report/Executive Summary**

The purpose of this report is to advise the Council of covert surveillance actions in terms of the Regulation of Investigatory Powers (Scotland) Act 2000 ("RIPSA") by the Council during 2024 and 2025.

**Date: 16 March 2026**

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### **3 Background**

- 3.1** In some circumstances, it is necessary for Midlothian 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").

The Regulation of Investigatory Powers (Scotland) Act 2000 ("RIPSA") provides a legal framework for covert surveillance by public authorities such as Midlothian Council. Any covert surveillance by officers must be carried out in terms of the Council's Covert Surveillance Policy. The objective of this policy is to ensure that all covert surveillance by Midlothian Council employees is carried out effectively, while remaining in accordance with the law.

- 3.2** It must be stressed that Midlothian Council does not engage in surveillance activities which are legally classed as "intrusive" eg phone tapping or mail interception. The Council's covert surveillance has simply involved test purchasing, social media, noise monitoring or CCTV of anti-social behaviour.
- 3.3** The Council's covert surveillance policy requires that, if an investigating officer considers it necessary, any surveillance must be approved by one of the six Authorised Officers within the Council (the Chief Executive, Executive Director, Place, Executive Director, Children, Young People and Partnerships, Chief Officer, Place, Chief Officer Corporate Solutions and the Legal and Governance Manager). These authorisations and consequent reviews and cancellations are then stored securely within legal services in line with the Council's data retention policies.
- 3.4** Whilst the Council has never made prolific use of covert surveillance (peak usage being 42 cases in 2012/13 and 22 cases in 2014/15), there has been a downward trend in the Council's surveillance activities in recent years. The number of surveillance activities in 2024 and 2025 are as follows:

2024 – 3  
2025 – 2

It must be noted that none of these activities disclosed sensitive or personal data.

The Council has not authorised any Covert Human Intelligence Sources during this period

- 3.5** The Council not only has the Covert Surveillance Policy referred to above but also has Covert Human Intelligence Sources and Social Media policies. These Policies were all reviewed during 2026 and the updated versions were approved by the Corporate Management Team on 04 March 2026. The current versions of these policies are appended to this Report and members are requested to note the terms of the Policies.

#### **4 Report Implications (Resource, Digital and Risk)**

##### **4.1 Resource**

None

##### **4.2 Digital**

None

##### **4.3 Risk**

There are no risks inherent in this Report, however, if the procedures outlined in the Covert Surveillance Policy are not followed, any evidence acquired may have been acquired unlawfully. It may therefore not be admissible in court, and the Procurator Fiscal is unlikely to take proceedings on the basis of such evidence. Midlothian Council may also be exposed to legal action.

##### **4.4 Ensuring Equalities (if required a separate IIA must be completed)**

This report does not recommend any change to policy or practice and therefore does not require an Equalities Impact Assessment.

##### **4.4 Additional Report Implications**

See Appendix A

## **Appendices**

### **Appendix A – Additional Report Implications**

## **APPENDIX A – Report Implications**

### **A.1 Key Priorities within the Single Midlothian Plan**

Not applicable

### **A.2 Key Drivers for Change**

Key drivers addressed in this report:

- Holistic Working
- Hub and Spoke
- Modern
- Sustainable
- Transformational
- Preventative
- Asset-based
- Continuous Improvement
- One size fits one
- None of the above

### **A.3 Key Delivery Streams**

Key delivery streams addressed in this report:

- One Council Working with you, for you
- Preventative and Sustainable
- Efficient and Modern
- Innovative and Ambitious
- None of the above

### **A.4 Delivering Best Value**

The report does not directly impact on Delivering Best Value

### **A.5 Involving Communities and Other Stakeholders**

The report does not directly relate to involving communities

### **A.6 Impact on Performance and Outcomes**

The report does not directly impact on Midlothian Council's performance and outcomes

### **A.7 Adopting a Preventative Approach**

Not applicable

### **A.8 Supporting Sustainable Development**

Not applicable

## **APPENDIX B**

### **Background Papers/Resource Links (if applicable)**

#### **Covert Surveillance Policies**

[Covert Human Intelligence Source Policy and Guidance v5.0 final.pdf](#)

[Covert Surveillance Policy and Guidance v5.0 final.pdf](#)

[POLICY AND GUIDELINES ON SURVEILLANCE THROUGH SOCIAL MEDIA  
v 6.0 final.pdf](#)