

ARGYLL AND BUTE COUNCIL
REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000



**POLICY AND PROCEDURE ON COVERT SURVEILLANCE
DIRECTED SURVEILLANCE AND COVERT HUMAN
INTELLIGENCE SOURCE**

- (a) For the purpose of preventing or detecting crime or the prevention of disorder;
- (b) In the interests of public safety
- (c) For the purpose of protecting public health.

2.2 When considering whether directed covert surveillance or use of a CHIS is appropriate and necessary regard must be had to the following;

- (a) Necessity does it satisfy one of the grounds in the act.
- (b) Proportionality the use and extent of the directed surveillance must be in

3. APPLICATIONS AND AUTHORISATION PROCESS

3.1

as being confidential and care must be taken to avoid inappropriate disclosure.

Such material must not be copied, retained or disseminated unless it is of essential significance to the investigation.

All confidential material must be destroyed as soon as it is no longer essential to the investigation

3.4 Cancellation of Authorisation

Where an authorising Officer concludes that any authorisation granted by them has ceased to be either necessary or appropriate they shall cancel the authorisation and advise the applicant.

Cancellation of Directed Surveillance authorisation shall be recorded using form RIPSAs Form 3. Cancellation of a CHIS authorisation shall be recorded using RIPSAs Form 6.

3.5 Renewal of Authorisation

An authorisation may be renewed. All applications for renewal shall be made on the form RIPSAs form 2 for Directed Surveillance and RIPSAs form 5 for CHIS.

Applications should only be made shortly before the then existing authorisation is due to expire.

3.6 Review of Authorisations

Authorising officers will review authorisations at intervals of not more than one month.

Authorising officers shall review an authorisation following any significant occurrence or where the surveillance has resulted in the obtaining of confidential or sensitive personal information.

Review (form 2A) should be attached to the original application.

3.7 Matters Specific to Use of a CHIS

a) Authorisation for use of a Covert Human Intelligence Source can only be granted

The arrangements are those contained at Appendix 1 hereof.

b) A covert human intelligence source wearing or carrying a surveillance device and invited into residential premises or a private vehicle does not require special authorisation to record activity taking place inside the premises or vehicle.

Authorisation for the use of that covert human intelligence source shall be obtained in the usual way.

c) In relation to the use of Covert Human Intelligence Sources;

The use of vulnerable adults (i.e. mentally impaired) and children under 18 as a Covert Human Intelligence Source **shall not be authorised** without reference to the

APPENDIX 1

Arrangements for handling a CHIS.

There will at all times be a person holding the requisite office, rank or position within the relevant investigating authority who will have day to day responsibility for dealing with the source on behalf of that authority and for the welfare. If the CHIS is an employee their line manager will be the best person to act as the Handler.

There will at all times be another person holding the requisite office, rank or position within the relevant investigating authority who will have general oversight of the use made of that source. T

There will be at all times a person holding the requisite office, rank or position with the relevant investigating authority who will have responsibility for maintaining a record of the use made of that source. This would be the handler with oversight by the Controller and the Authorising Officer.

The record relating to the use of that source are maintained by Argyll and Bute Council which will always contain particulars of such matters as may be specified in regulations and codes of practice made by the Scottish Ministers (see below).

The records maintained by Argyll and Bute Council that discloses the identity of the source will not be available to persons except to the extent that there is a need for access to them to be made available to those persons.

There must always be consideration of the following;

Necessity - does it satisfy one of the grounds in the act.

Effectiveness - Planned undercover operations shall be undertaken only by suitably trained or experienced employees, or under their direct supervision.

Proportionality - the use and extent of the CHIS must be in proportionate to what is sought to be achieved by carrying it out.

This involves balancing the intrusiveness of the activity on the target and others who may be affected by it against the need for the activity in operational terms.

It will not be proportionate if it is excessive in the circumstances of the case or if the information which is sought could reasonably be obtained by less intrusive means.

- Examples of when a CHIS may be necessary can be found at paragraphs 2.18, 2.23 and 2.25 of the SG code of practice on 9.N5 fo m70(if)-3(it)10(is e)

APPENDIX 2

Protocol for requesting Access to Facebook for purposes of an investigation

This protocol is to regulate the procedure where any Council Officer involved in an investigation considers it necessary that they access Facebook in order to obtain

1. (Name of Service) has set up a Facebook account (Name of account) for the purpose of allowing any authorised Officer involved in an investigation any au1@

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Argyll and Bute Council Officer, in course of duties, considers it necessary to:
(1) Make observations of person(s) in covert manner, without their knowledge;
(2) Make use of informant(s) and conduct operations in covert manner, without subjects knowledge; to gather information in regard to the subject.

Is surveillance or the use of Covert Human Intelligence source in relation to anything taking place in residential premises or within private vehicle?

YES

YES

NO

YES