

**INVESTIGATION INTO ALLEGATIONS OF INAPPROPRIATE COVERT
SURVEILLANCE OF SOCIAL MEDIA BY A COUNCIL EMPLOYEE**

1. INTRODUCTION

- 1.1 This report provides the Council with an executive summary of the key findings and conclusions arising from the Investigation into the recent allegation of inappropriate covert surveillance of Social Media by a Council employee.

2. SUMMARY

- 2.1 The Investigation Report concludes that there is no evidence of any form of spying or covert surveillance activities having been carried out by any employee within the Council's Communication's Team.
- 2.2 The Investigation Report concludes that there is sufficient cause that a Council employee should be subject to the Council's disciplinary procedures. That disciplinary process is ongoing and further comment at this time would not be appropriate.
- 2.3 In terms of due process, Council is asked to note that there are some links from the Investigation to the Council's internal disciplinary process. The current nature of these links necessitates restricted commentary in certain aspects where the identity of individuals would or may otherwise be compromised. In this regard, the Council's Executive Director of Customer Services is continuing to monitor and consider the legal position as matters proceed.

3 RECOMMENDATIONS

- 3.1 It is recommended that the Council:-
1. Notes this report.
 2. Notes the fundamental conclusion arising from the Investigation that there was no evidence of any form of spying or covert surveillance activities having been carried out by any employee in the Council's Communication's Team and endorses the Investigation's recommendation that there is no requirement to extend the investigation further.

4 BACKGROUND

- 4.1 In September 2011, a Council employee gave a presentation entitled '*Feel the social media fear (and do it anyway)*' to a group of fellow professionals at a national conference in Glasgow. During the presentation, the employee used the term - '*Spy*' accounts – on a slide prompt. On 10 February 2012, a story about the employee's presentation appeared in the Herald newspaper under the headline '*Council chief goes online to spy on critics*'.
- 4.2 Following publication of the Herald story, numerous local and national media agencies and local community groups reported and commented on the story. This continued into March and beyond. The employee and the Council was being reported as having set up spy accounts on social media sites such as Facebook to gather information on groups and individuals regarded as critical of the Council. The issues reported raised continued concern and debate amongst local people.
- 4.3 In a Statement dated 21 February 2012, the Chief Executive advised Elected Members that the Executive Director of Development and Infrastructure Services, as Lead Disciplinary Investigation Officer, had been tasked with investigating the circumstances around the '*Spy*' accounts matter and that after a due diligence assessment process, had appointed Mr John Clayton as the External Independent Investigating Officer to assist and provide the necessary external resource and rigour needed to undertake a full and independent investigation.
- 4.4 The Chief Executive also advised of the intention, in due course, to produce for Members and the wider public interest, an appropriate executive summary report of the Investigation findings, to be presented to Council in the first instance. This report fulfils this commitment.

5 THE INVESTIGATION PROCESS

- 5.1 The Investigation sought to establish and set out the evidence and facts; and then to draw conclusions from these. Recognising that inevitably judgements would require to be made when evidence conflicts, care was taken to be measured, balanced and fair in reaching conclusions on such matters.
- 5.2 Fact finding involved interviews with six employees being carried out under the terms of the Council's Disciplinary Procedures, September 2009. In addition to the fact finding interviews, further information was obtained from three senior officers and submitted to the investigation team.
- 5.3 A total of 180 days (rounded) professional resource was incurred on the investigation, up to and including the production of the full investigation report on 29 May 2012. Of this, 58 were incurred by the external officer mentioned at paragraph 4.4 above. The remaining 122 days came from Council employees directly allocated to assist the External Independent Investigating Officer. In

addition, an external forensic resource unit, Sapphire (working to ISO/IEC 27001:2005 standard in England), was secured to 'audit' and report on two Council laptop computers and two mobile phone devices, again working under the direction of the external officer. Four separate Companion Report Documents to the Full Investigation report were produced by the unit.

- 5.4 The investigation undertook a comprehensive and far reaching 'spy related' 'Key Word' search (for 20 words) of the Council's Server Data for the 2 year period April 2010 to March 2012 inclusive, for six Communications Section employees. For investigation purposes, the full contents of the Council's Data Server was preserved and archived as at 8 February 2012 (the Herald story appeared on 10 February). Late additions and deletions were recovered and archived as part of this process. The investigation team had a full and complete database to work from. The objective was to seek to identify any 'data hits' around the 20 'Key Words' that might point to and / or lead to any evidence of 'Spy' accounts having been used for any kind of covert surveillance for the purposes of gathering information, by any person directly connected with the Council's Communications Team. Working under the direction of the External Independent Investigating Officer, the Council's ICT Companion Report Document to the Full Investigation Report sets out the various technical processes put in place to interrogate the Server Data for 'Key Word' 'Hits' for detailed checking by the investigation team.
- 5.5 The cumulative total hits identified in the Council's server data for the 20 'Key Words' search criteria defined by the external investigating officer totalled 127,098. The investigation team reviewed the 'hits' output. Judgement was applied over the level of sampling applied to the categories of 'hits' – some were read 100% (e.g. for the words: Spy; Covert; Surveillance and Dummy); others were test sampled as deemed appropriate. Again, the investigation team's 'Key Word' search Companion Report Document to the Full Investigation Report sets out the detailed work done and findings from this important part of the investigation.

6 THE INVESTIGATION FINDINGS

- 6.1 The fundamental conclusion arising from the Investigation is that there was no evidence of any form of spying or covert surveillance activities having been carried out by any employee in the Council's Communication's Team.
- 6.2 The Investigation has found examples of information monitoring by the Council's Communications Team. The Investigation was satisfied that the information being monitored was routinely available from 'open' social media or other publicly available web sites; that it was freely accessible by anyone who simply 'clicked on' to the site to view information that is there; and where no access permissions were required and where no 'postings' were made' by Council employees. The Investigation further concluded that:

- 6.2.1 the information obtained by such methods is an acceptable form of monitoring – it could not, under any circumstance, be reasonably or properly defined as spying; and
- 6.2.2 monitoring of local and national media for information, including that from social media sites, is a necessary, proper and routine function of a Council's press and communications office. All large organisations monitor what is being said about and to them – and Argyll and Bute Council does so also.
- 6.3 The Investigation also concludes that there are no issues at all of any concern around the central theme of '*Spy*' *accounts* or covert surveillance of individuals or groups or community groups that would point to any need to extend the Investigation into a review of the wider corporate culture around the theme of inappropriate covert surveillance activities.

7 IMPLICATIONS

- 7.1 **Personnel and Legal:** There are some links from the Investigation to the Council's internal disciplinary process. This may require some degree of redaction being required to the Full Investigation Report (and possibly its Companion Report Documents) before being released in the public domain. The Executive Director of Customer Services is considering the legal position in regard to the release of certain information and will advise accordingly. A Council employee is currently subject to the Council's disciplinary procedures. That disciplinary process is ongoing and further comment at this time would not be appropriate.
- 7.2 **Financial:** As at 29 May 2012 when the Full Investigation Report was submitted to the Lead Disciplinary Investigation Officer, the external independent investigating officer billed and was paid for 57.75 fee days input at a daily rate of £450, amounting to £25,987.75. There are some travel and accommodation costs to add to this. These costs have been met from existing budgetary provision. The employee costs incurred in supporting the investigation have also been met from existing budgetary provision.

Sandy Mactaggart
Executive Director, Development and Infrastructure
And Lead Disciplinary Investigation Officer
17 August 2012

BACKGROUND PAPERS – 7 Reports in total:

- Investigation Report by John Clayton, External Independent Investigating Officer, dated 29 May 2012
- ICT Technical Report, dated 11 May 2012
- 'Key Word Interrogation / Search Report, dated 22 May 2012

- Sapphire Computer Hard Disk / Mobile Phone Analysis Reports – 4 Separate Reports dated March to May 2012