

29 October 2020



**Report on the Council's use of powers
under the Regulation of Investigatory
Powers Act 2000 - Quarter 1 & 2 -
2020/2021**

Report of Helen Lynch, Head of Legal and Democratic Services

Purpose of the Report

1. To inform members about the Council's use of powers under the Regulation of Investigatory Powers Act 2000 ('RIPA') during the period 1 April 2020 to 30 June 2020 (quarter 1) and during the period 1 July 2020 to 30 September 2020 (quarter 2), to ensure that it is being used consistently with the Council's policy and that the policy remains fit for purpose.

Executive summary

2. Durham County Council, in exercising its use of powers under RIPA during quarters 1 and 2, did not seek authorisation for any Directed Surveillance (DS) or Covert Human Intelligence Surveillance (CHIS) operations.
3. There has been a noticeable downturn in the authorisations during quarters 1 and 2 as a result of the Covid-19 pandemic. The restrictions arising from the pandemic have seen a reduction in the number of premises open to the public, this coupled with the social distancing measures and lockdown has limited the resources available to conduct surveillance requiring RIPA authorisation during quarters 1 and 2.
4. The Council's Senior Responsible Officer is satisfied that the Council's use of its powers under RIPA during quarters 1 and 2 is consistent with the Council's policy and that the policy remains fit for purpose.

Recommendation

5. It is recommended that Members:
 - i. Receive the quarterly report on the Council's use of RIPA for the periods 1 April 2020 to 30 June 2020 and 1 July 2020 to 30 September 2020.
 - ii. Resolve that the powers are being used consistently with the Council's policy and that the policy remains fit for purpose.

Background

6. As members are aware, the Regulation of Investigatory Powers Act 2000 (RIPA) enables local authorities to carry out certain types of surveillance activity provided that specified procedures are followed.
7. Directed surveillance is covert surveillance that is not intrusive and is carried out in relation to a specific investigation or operation in such a manner as is likely to result in the obtaining of private information about any person (other than by way of an immediate response to events or circumstances such that it is not reasonably practicable to seek authorisation under the 2000 Act).
8. The Local Authority is able to rely upon the information obtained from those surveillance activities within court proceedings.

Quarter 1 and 2 Activity

9. During quarters 1 and 2 there were no RIPA directed surveillance or CHIS applications presented to the Court.
10. For information the comparison of authorisations granted for the previous year in quarter 1 was zero in respect of both CHIS and directed surveillance authorisations. For the previous year in quarter 2 there was one directed surveillance authorisation and no CHIS authorisations.
11. Members will note that there has been a downturn in the number of RIPA authorisations in quarters 1 and 2 of 2020/21. This has been explained due to the restrictions imposed during the Covid-19 pandemic. Whilst this report primarily deals with RIPA authorisations it is important to bring to members attention that there has not been a correlating downturn in non-RIPA related work.
12. The non-RIPA work of the Council during the covid pandemic has shifted focus to the comparative quarter for 2019/2020. The investigations undertaken predominately relate to compliance with the Health Protection (Coronavirus Restrictions) (England) Regulations 2020. This has been achieved by conducting non-RIPA surveillance where complaints have been made by the public about business operations.. From these investigations, where necessary, the Council have issued Prohibition Notices to address compliance with the Regulations.

Background papers

- None.

Contact: Kamila Coulson-Patel

Tel: 03000 269674

Appendix 1 Implications

Legal Implications

The Council's objective is to make lawful and appropriate use of surveillance techniques where required whilst complying with the provisions of the Human Rights Act 1998, in particular the provisions of Article 8 of the ECHR securing respect for an individual's (qualified) right to privacy. Quarterly oversight by the board helps secure this objective.

Finance

Not applicable.

Consultation

Not applicable.

Equality and Diversity / Public Sector Equality Duty

Not applicable.

Climate Change

Not applicable.

Human Rights

Use of investigatory powers potentially engages the Human Rights Act 1998 and in particular the qualified right to private and family life under article 8 of the European Convention. This right may only be interfered with in circumstances where it is necessary and proportionate to do so in pursuit of the public interest. Oversight by the Board of the Council's RIPA operations is designed to facilitate compliance with the Human Rights Act.

Crime and Disorder

The appropriate use of an oversight of RIPA powers will enable the Council to provide evidence to support appropriate prosecutions and tackle crime.

Staffing

Not applicable.

Accommodation

Not applicable.

Risk

An individual may complain to Investigatory Powers Tribunal that surveillance has been unlawful and if found to be unlawful could result in financial penalties and reputational damage.

Procurement

Not applicable.