

**01 September 2023**



**Report on the Council's use of powers  
under the Regulation of Investigatory  
Powers Act 2000 - Quarter 1 - 2023/24**

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**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 01 April 2023 and 30 June 2023 (quarter 1) to ensure that it is being used consistently with the Council's policy and that the policy remains fit for purpose.

**Executive summary**

2. This report provides an update of the activity for quarter 1 of 2023/24 for Durham County Council in exercising its use of powers under RIPA for Directed Surveillance (DS) and Covert Human Intelligence Surveillance (CHIS).
3. The Council's Senior Responsible Officer is satisfied that the Council's use of its powers under RIPA during quarter 1 is consistent with the Council's policy and that the policy remains fit for purpose.

**Recommendation**

4. It is recommended that Members:
  - i. Receive the quarterly report on the Council's use of RIPA for the period covering quarter 1 2023/24.
  - ii. Resolve that the powers are being used consistently with the Council's policy and that the policy remains fit for purpose.

## **Background**

5. 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.
6. 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).
7. The Local Authority is able to rely upon the information obtained from those surveillance activities within court proceedings.
8. This report gives details of RIPA applications that have been authorised during the quarter 1.

## **Quarter 1 Activity**

- 9 During quarter 1 there were two applications for directed surveillance and one CHIS application presented to the Court.
- 10 The two applications for directed surveillance were part of an operation relating to the sale of illicit tobacco products. The operation included ten premises. As a result of the surveillance operations, the service is considering two licence reviews, issuing four warnings and four potential prosecutions.
- 11 The CHIS authorisation was also in relation to the sale of illicit tobacco products. Whilst the authorisation has now been cancelled with all premises on the schedule visited, the investigation is still ongoing. Enforcement action has been taken against those subjected to the authorisation, the outcomes of which will be presented to COSMB at a later date.
- 12 For information the comparison for the previous year in quarter 1, there were no directed surveillance or CHIS authorisations.

## **Background papers**

- None.

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## **Appendix 1 - Implications**

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### **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.