

15 February 2024



**Report on the Council's use of powers
under the Regulation of Investigatory
Powers Act 2000 – Quarter 3 –
2023/2024**

Report of Helen Bradley, 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 of 1 October 2023 and 31 December 2023 (quarter 3) 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 3 of 2023/2024 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 3 is consistent with the Council's policy and that the policy remains fit for purpose.

Recommendation(s)

- 4 It is recommended that Members:
 - (i) Receive the quarterly report on the Council's use of RIPA for the period covering quarter 3 2023/2024.
 - (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 on the information obtained from those surveillance activities within court proceedings.
- 8 This report gives details of RIPA applications that have been authorised during quarter 3.

Quarter 3 Activity

- 9 During quarter 3 there was one CHIS application and no directed surveillance applications presented to the Court.
- 10 The CHIS application, which is now cancelled, was in relation to the sale of counterfeit goods and the activities authorised resulted in a storage address being identified and a test purchase being acquired.
- 11 A subsequent inspection of the storage address resulted in a large quantity of suspected counterfeit goods being seized. The senior officer from Trading Standards noted that the authorisation was invaluable to the investigation. Due to the volume of goods seized during the inspection a prosecution is likely to be pursued.
- 12 For information comparison for the previous year in quarter 3, there was one authorisation for directed surveillance and no CHIS authorisations.

Background papers

- None

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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

N/A.

Consultation

N/A.

Equality and Diversity / Public Sector Equality Duty

N/A.

Climate Change

N/A.

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 the Investigatory Powers Tribunal that surveillance has been unlawful. If it is found to be unlawful, it could result in financial penalties and reputational damage.

Procurement

N/A.