

03 September 2024



**Report on the Council's use of powers
under the Regulation of Investigatory
Powers Act 2000 – Quarter 1 –
2024/2025**

Report of Helen Bradley, Director 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 April 2024 and 30 June 2024 (quarter 1) to ensure that it is being used in accordance with the Council's policy.

Executive summary

- 2 This report provides an update of the activity for quarter 1 of 2024/2025 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 4 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 1 2024/2025.
 - (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 4.

Quarter 1 Activity

- 9 During quarter 1 there were two directed surveillance applications and no CHIS applications presented to the Court.
- 10 The directed surveillance applications were authorised in April 2024 and related to the sale of illicit tobacco products.
- 11 In respect of one of the authorisations, this was part of a criminal investigation and involved two premises. The service conducted test purchases and made subsequent inspections of both premises where over £7000 worth of illicit tobacco and non-complaint electronic cigarettes were recovered.
- 12 As a result of those inspections, there have been closure notices issued to both premises for 3 months. The investigation has also led to six individuals being identified and interviewed under caution. Formal warnings have been issued to three individuals who are now facing criminal prosecutions. A proceeds of crime investigation is also continuing against one individual. The directed surveillance has now been cancelled.
- 13 In respect of the second authorisation, the directed surveillance was used to identify an individual who was operating a premises on a daily basis as well as the believed business owner. It is believed a delivery of illicit tobacco was witnessed which resulted in a series of test purchases by the service. The surveillance was able to connect the individual operating the retail premises to the residence above, a link which could have only been made using the directed surveillance.
- 14 As a result of the surveillance, a warrant of entry was obtained to the residence above the retail premises. The inspection on the retail premises

and the warrant on the residence above, resulted in a quantity of illicit tobacco being recovered from the residence. In addition, a chute was also identified from the residence to the retail premises below. The retail premises was subsequently closed by way of a Closure Order and enquiries into the business owner are continuing. The directed surveillance has now been cancelled.

- 15 For information the comparison for the previous year in quarter 1, there were two authorisations for directed surveillance and one CHIS authorisation.

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.