

**28 October 2024**



**Report on the Council's use of powers  
under the Regulation of Investigatory  
Powers Act 2000 – Quarter 2 –  
2024/2025**

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**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 July 2024 and 30 September 2024 (quarter 2) 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 2 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 2 is consistent with the Council's policy.

**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 2 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 2.

## **Quarter 2 Activity**

- 9 During quarter 2 there were three directed surveillance applications and no CHIS applications presented to the Court.
- 10 The directed surveillance applications were authorised in July 2024 and September 2024 respectively and related to the sale of illicit tobacco products.
- 11 In respect of one of the authorisations, this involved a singular retail premises. The service conducted a test purchase at the premises which captured the supply of illicit tobacco products.
- 12 The directed surveillance also resulted in identifying the storage location of the illicit tobacco products and allowed for sufficient evidence to be gathered to enable inspections at the premises and the storage location. A sophisticated concealment was also discovered within the premises.
- 13 Illicit tobacco products with a retail value of over £9,000 and cash of over £1,000 was also found at the premises and the storage location. The retail premises has subsequently been closed by way of a Closure Order.
- 14 The second directed surveillance authorisation was also in relation to a singular retail premises. Following a test purchase, the operation captured evidence in relation to the supply of illicit tobacco products.
- 15 The directed surveillance also resulted in identifying the storage location of the illicit tobacco products and allowed for sufficient evidence to be

gathered to enable applications for a warrant of entry for both the retail premises and the storage location.

- 16 Illicit tobacco products with a retail value of over £10,000 were recovered from the premises and the storage location. The process for a Closure Order has also been initiated.
- 17 The service has commented that the directed surveillance was instrumental in the timing of the execution of warrants of entry being conducted at the premises and the storage location.
- 18 The third directed surveillance authorisation also relates to an operation involving one retail premises. A test purchase has been carried out by the service which captured evidence in relation to the supply of illicit tobacco products.
- 19 This operation is ongoing, and an update will be brought to a later meeting of COSMB.
- 20 For information the comparison for the previous year in quarter 2, there were no applications for directed surveillance and no applications for CHIS.

## **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**

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.