



Office of Surveillance  
Commissioners

The Rt. Hon. Sir Christopher Rose  
Chief Surveillance Commissioner  
Office of Surveillance Commissioners  
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26 June 2014

**DURHAM COUNTY COUNCIL  
INSPECTION REPORT**

Inspection Date      13 May 2014  
Inspector              His Honour David Hodson  
                                 Assistant Surveillance Commissioner

**Introduction**

1. It would, I think, be fair to say that any Prince Bishop returning today to the land where he once held sway and immense feudal power would not be able to recognise the administrative arrangements that now exist in County Durham. In truth His Grace would probably have had difficulties in coming to terms with anything that smacked of democracy throughout the long years of the County Palatine . There have been many changes over the centuries and particularly during the past thirty years. These culminated in 2009 when Durham County Council became a unitary authority and one of the largest in England. This council now serves a widespread population of over half a million people and employs a total in excess of 17.400 people (including school employees).
2. The Senior Management Structure is headed by Mr George Garlick as Chief Executive Officer. He has an Assistant Chief Executive Officer and, in support, there are four Corporate Directors to whom Heads of Service report.

3. The same personnel as were responsible for RIPA matters at the time of the last inspection remain in post now. Ms Collette Longbottom, Head of Legal and Democratic Services and the Council's senior lawyer is RIPA Senior Responsible Officer. Ms Clare Burrows is the Council's Governance Solicitor, RIPA Monitoring Officer and author of the Council's impressive Corporate Guidance Document published in June 2013. Ms Jocasta Lawton is the RIPA Co-ordinating Officer and is also responsible for the Central Record. Ms Lawton warmly welcomed me to County Hall and was responsible for all the arrangements for my visit and ensured that everything passed off smoothly. I am most grateful to her for all her efforts.
4. During the inspection period there were 43 authorisations for directed surveillance – four cases of fly-tipping, 25 cases relating to under-age sales of alcohol or tobacco, five cases relating to unlicensed taxi drivers, four cases relating to counterfeit goods and five separate single cases relating to benefit fraud, illegal sale of fireworks, a licensing offence, a food safety matter and a case concerning unsafe products. There were four occasions between 2012 and 2014 when there were CHIS authorisations. Two concerned sales on social networking sites, one concerned illegal fireworks and the other counterfeit goods. Two applications for directed surveillance authorisations were refused but no authorisation concerned the likely acquisition of confidential material.
5. Ms Longbottom, Ms Burrows and Ms Lawton remained with me for the duration of the inspection and we were able to have a full and useful exchange of views on RIPA matters.
6. The Chief Executive's address for correspondence is: Durham County Council, County Hall, Durham DH1 5UF.

#### **Council Corporate Guidance Document**

7. i) This an up to date, comprehensive and accurate document describing the Council's policy on covert surveillance and containing a most helpful practical guide to all the processes necessary to obtain directed surveillance and CHIS authorisations. The RIPA principles are fully enunciated and officers following the procedures described in the document can be confident that their actions will be fully RIPA compliant. In his report of April 2011 His Honour Norman Jones QC made detailed recommendations (Recommendation VII and paragraph 34) for the amendment of the earlier

policy document. These have been fully discharged with the publication of the June 2013 edition.

ii) I commend the inclusion in the document of a section covering "Non-RIPA surveillance." The Council have embraced the OSC Procedures and Guidance 2011 advice and have established a formal procedure and record-keeping process covering decisions and actions where covert surveillance is used but where RIPA does not apply. This is clearly a prudent and sensible step which provides appropriate protection in the event of a challenge.

iii) I also commend the Council on the inclusion in the document of a suitable CCTV protocol. This ensures that a further recommendation by His Honour (Recommendation VIII) has also been discharged.

iv) I do have, however, a very minor suggestion but which is one that cannot be glorified by the description of "recommendation" but which might make the section more complete and avoid misunderstanding. In the section on Intrusive Surveillance on page three of the Corporate Guidance Document it may be helpful to add "*In no circumstances is Durham County Council permitted to carry out intrusive surveillance.*"

#### **Examination of the Central Record and RIPA authorisation forms during the Inspection period.**

8. i) The Council is a not insignificant user of its RIPA powers as is demonstrated by the 43 authorisations over the inspection period although latterly there has been something of a reduction in their number. The Council is clearly alert to the questions that surround the applicability of RIPA to accessing social networking sites in furtherance of criminal investigations and I was given a copy of Counsel's Opinion which informs decision-making in this area.

ii) In his report of April 2011 His Honour Norman Jones QC made extended suggestions and recommendations (Recommendation 1 and paragraph 10) in respect of the Central Record. I am pleased to be able to say that the additions to the spread sheet he suggested have been incorporated and the Central Record is in good order. Recommendation 1 has therefore been discharged.

iii) A survey of all the authorisations revealed a number of similar failings:

2011/12. In four instances no duration of the directed surveillance was on the form; in one instance the authorising officer's statement was inadequate and also not signed.

2012/13. Again there were four instances of durations not being set and in one no review date was set.

2013/14. Again four more instances of durations not being set were to be seen and a review box was left uncompleted.

iv) His Honour made a number of recommendations concerning the RIPA forms highlighting in particular the cancellation of authorisations. This has been attended to and all authorisations had been appropriately cancelled. Recommendation II has therefore been discharged.

v) The other factors requiring attention identified in paragraphs 10 – 17 have been largely addressed. However, a more robust oversight of the RIPA process would have identified the limited failings I have mentioned in paragraph 8 (iii). The importance of setting the duration of a particular authorisation can be emphasised in future training.

**See Recommendation.**

vi) The principles of proportionality and necessity have been very nearly understood and applied universally. Although there was one case in 2011/12 where an authorising officer's statement in this regard was defective it would be unfair to say that Recommendation III has not been implemented.

### **Training**

9. His Honour recommended (Recommendation VI) that a corporate training programme for RIPA be established providing regular refresher training for all officers engaged or likely to be engaged in covert surveillance. General RIPA training from an outside provider has been delivered each year since 2012 the last session (of refresher training) being in January 2014. Each session has been well attended and I have seen a schedule of the numbers present. In addition there was CHIS training in December 2013 and regular up-dating material is also provided. This recommendation has been well and truly discharged.

### **CCTV**

10. I have already referred to the CCTV protocol in the Corporate Guidance Document. This is entirely satisfactory and fully describes the appropriate use of CCTV under RIPA. In fact although the Council deploys 643 CCTV cameras throughout the area they are all operated overtly and no use whatsoever has been made of them covertly during the inspection period. A current log of the equipment used is kept by the Trading Standards Department and I am most grateful to Ms Lawton for letting me have this information electronically after the inspection.

### **Conclusion**

11. This has been a very satisfactory inspection. Virtually all the matters highlighted in April 2011 have been attended to and with one or two minor exceptions the recommendations have been discharged. There remain the training points which can easily be covered in the regular system of training that is now in place. There is an undoubted enthusiasm amongst all the staff to ensure that there is an efficient and effective RIPA regime in place. They are alive to current developments and are keen to make full use of their powers when required in appropriate circumstances. They are to be congratulated on what they have achieved in the past three years and I am sure that they can look to their RIPA future with confidence.

### **Recommendations**

1. Ensure that future training covers the need to set the duration of each and every authorisation.
2. Establish a robust system to review all RIPA forms.

**His Honour David Hodson**  
**Assistant Surveillance Commissioner**  
**26 June 2014**