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Cabinet Member (Policing & Equalities)

4 September 2014

**Name of Cabinet Member:**

Cabinet Member (Policing & Equalities) – Councillor Townshend

**Director Approving Submission of the report:**

Executive Director, Resources

**Ward(s) affected:**

None

**Title:**

Use of Covert Surveillance of Employees Policy and Procedure

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**Is this a key decision?**

No

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**Executive Summary:**

To update the Cabinet Member (Policing & Equalities) on the use of the Policy and Procedure for the Covert Surveillance of Employees.

**Recommendations:**

The Cabinet Member is recommended to:

- (1) Note the position outlined in the report;
- (2) Request that the Assistant Director for Legal and Democratic Services provide a report to the Cabinet Member (Policing & Equalities) on an annual basis (or more frequently if the number of applications received increases significantly) identifying the number of applications, the total cost to the local authority of the surveillance and any other relevant issues.
- (3) Authorise the Assistant Director for Legal and Democratic Services in consultation with the Cabinet Member (Policing & Equalities) to dispense with

recommendation 2 above, provided that no applications for the use of the covert surveillance are received within any 12 month period.

**List of Appendices included:**

None

**Other useful background papers:**

None

**Other useful background information:**

None

**Has it been or will it be considered by Scrutiny?**

No

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

No

**Will this report go to Council?**

No

**Report title:** Use of Covert Surveillance of Employees Policy and Procedure

**1. Context (or background)**

- 1.1 At the Cabinet Member meeting (Community Safety & Equalities) on 5 March 2013, the Policy and Procedure for the Covert Surveillance of Employees was approved. The Monitoring Officer was requested to report to the Cabinet Member on a 6 monthly basis identifying the number of applications received, the total cost to the local authority of any surveillance carried out and any other relevant issues.
- 1.2 Following the meeting, the Policy and Procedure was published on the Council's intranet site, Beacon.
- 1.3 Since its implementation, there have been no applications to use covert surveillance of employees.

**2. Options considered and recommended proposal**

- 2.1 The policy and procedure for the covert surveillance of employees helps ensure that the Council complies with the Information Commissioner's "Employment Practices Code", the Data Protection Act 1998 and the Human Rights Act 1998.
- 2.2 The reporting on the use of the policy and its costs implications represents good practice. It is therefore proposed that Officers continue to report to Members on the number of applications received, the costs implications and any other relevant issues. However, in view of the low number of applications received (approximately 2 or 3 per year), it is proposed that the reporting is done on an annual rather than six monthly basis. In the event that the number of applications exceeds the usual number of applications, a report will be prepared for the Cabinet Member's (Policing and Equalities) consideration sooner than the 12 month anniversary.
- 2.3 However, where no applications are received within any 12 month period, it is proposed that the Assistant Director for Legal and Democratic Services in consultation with the Cabinet Member (Policing & Equalities) can dispense with the need for a report.

**3. Results of consultation undertaken**

- 3.1 The recommendations in this report do not require consultation to be undertaken.

**4. Timetable for implementing this decision**

- 4.1 The recommendations in this report will be implemented immediately. The item will be added to the outstanding items agenda for the Cabinet Member (Policing and Equalities) to ensure that the annual report is prepared in 12 months. The Council will continue to collate statistical information in relation to the number of applications received, which will be used to assess whether a report is required

within the 12 month period.

## **5. Comments from Executive Director, Resources**

- 5.1 **Financial implications** – There are no direct financial implications arising from these changes.
- 5.2 **Legal implications** – When undertaking covert surveillance the Council must ensure that it complies with the requirements of the Data Protection Act 1998. Covert surveillance is likely to involve the processing of personal information about living individuals (e.g. recording movements of employees or taking photographs).

Surveillance must also be undertaken in compliance with the Human Rights Act 1998. Under Article 8 of the Act everyone has the right to respect for his private and family life, his home and his correspondence. To satisfy Article 8, the covert surveillance must be both necessary and proportionate.

Conducting covert surveillance of employees in accordance with the proposed procedure will ensure that the Council complies with its obligations under the Data Protection Act 1998 and the Human Rights Act 1998. Failure to carry out surveillance in accordance with the Policy and Procedure may render any evidence gathered inadmissible in any subsequent disciplinary/criminal proceedings.

## **6. Other implications**

None

### **6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?**

The surveillance will help support the Council in assisting preventing and detecting a crime or serious malpractice in respect of employees. The periodic reporting on the use of the Policy helps ensure that high standards of conduct are maintained and the above legislative requirements are met when applying the policy.

### **6.2 How is risk being managed?**

The requirement for the Council to seek Monitoring Officer/Deputy Monitoring Officer approval for any proposed use of surveillance and reporting to Cabinet Member reduces the risk of the Council undertaking such surveillance inappropriately and unlawfully. This will help ensure that the rights of employees are protected and any evidence obtained from such use will be admissible in a disciplinary hearing and/or a court of law.

### **6.3 What is the impact on the organisation?**

There is no additional impact on the Council.

**6.4 Equalities / EIA**

There are no equalities/EIA issues arising from this report.

**6.5 Implications for (or impact on) the environment?**

There are no implications on the environment.

**6.6 Implications for partner organisations?**

There are no implications on partner organisations.

**Report author(s):****Name and job title:** Helen Lynch, Place & Regulatory Manager, Legal Services.**Directorate:** Resources**Tel and email contact:** 024 7683 3011 [helen.lynch@coventry.gov.uk](mailto:helen.lynch@coventry.gov.uk);

Enquiries should be directed to the above.

<b>Contributor/approver name</b>	<b>Title</b>	<b>Directorate or organisation</b>	<b>Date doc sent out</b>	<b>Date response received or approved</b>
<b>Contributors:</b>				
Simon Brake	Assistant Director, Communities & Health Caldicott Guardian (RIPA Monitoring Officer & Senior Responsible Officer)	People Directorate	08/08/14	11/08/14
S. Mangan	Audit & Risk Manager	Resources Directorate	08/08/14	08/08/14
U Patel	Governance Services Officer	Resources Directorate	08/08/14	18/08/14
<b>Names of approvers for submission: (officers and members)</b>				
Diane Jones	Finance Manager	Resources Directorate	08/08/14	
C Forde	Assistant Director Legal & Democratic Services	Resources Directorate	12/08/14	12/08/14
C West	Executive Director	Resources Directorate		
Councillor Townshend	Cabinet Member (Community Safety and Equalities)	Coventry City Council	20/08/14	20/08/14

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