

Cabinet Member for Policing and Equalities

22 January 2015

Name of Cabinet Member:

Cabinet Member for Policing and Equalities – Councillor Townshend

Director Approving Submission of the report:

Executive Director of Resources

Ward(s) affected:

None

Title:

Processing CCTV footage for investigating alleged employee misconduct

Is this a key decision?

No

Executive Summary:

To provide an overview of the proposed Procedure for submitting and authorising applications for processing CCTV footage in respect of alleged employee misconduct.

Recommendations:

The Cabinet Member is recommended to:

- (1) Consider the draft Procedure and supporting documents.
- (2) Approve the Procedure for processing CCTV footage in respect of alleged employee misconduct.
- (3) To request that the Monitoring Officer provide a report to the Cabinet Member (Policing & Equalities) on an annual basis identifying the number of applications and any other relevant issues, which report will be considered in private if necessary where data and information about individuals is referenced in the report.

List of Appendices included:

Appendix 1: Processing of CCTV footage for alleged employee misconduct Procedure

Appendix 2: Processing of CCTV footage for alleged employee misconduct form:

Appendix 3: Flowchart guidance: Requesting CCTV data for cases of alleged employee misconduct

Appendix 4: Declaration Form

Other useful background papers:

Nil

Other useful background information:

Nil

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?

Yes

TU Core Group on 8th July 2014

Cabinet Member (Policing & Equalities) agenda briefing 7th January 2015

Cabinet Member (Policing & Equalities) on the 22nd of January 2015

Will this report go to Council?

No

Report title: Use and Access of CCTV footage for investigating alleged employee misconduct

1. Context (or background)

- 1.1 From time to time, the Council's Audit & Risk Manager receives requests from Managers for authorisation to view CCTV footage to investigate alleged employee misconduct. The proposed Procedure and supporting documentation attached at Appendices 1-4 to this report will ensure that in processing CCTV footage for this purpose, the Council complies with its duties under the Data Protection Act 1998, The Protection of Freedoms Act 2012 and the Human Rights Act 1998. The procedure only relates to CCTV equipment owned and managed by the Council.

In drafting the Procedure, regard has been had to the Information Commissioner's Data Protection Code of Practice for Surveillance Cameras and Personal Information 2014, the Information Commissioner's Guidance on the Employment Practices Code and the Surveillance Camera Code of Practice 2013 to ensure that it promotes good practice.

- 1.2 In accordance with the legislation and Codes of Practice referred to above, employees are made aware that their images are being overtly recorded by a CCTV camera by appropriate signage which indicates the presence of recording, the purpose of the recording, the ownership of the system and contact details.

Application Process and Approval

- 1.3 The proposed Procedure is similar in format to the Covert Surveillance of Employees Procedure.
- 1.4 If a Manager wants to access CCTV footage to investigate alleged employee misconduct, they must liaise with the Council's Internal Audit & Risk Manager. If he is satisfied that the processing of the footage is necessary and proportionate in all the circumstances and that alternative investigation methods have been exhausted or are not appropriate, he will submit an application (appendix 2) to the Monitoring Officer or Deputy Monitoring Officer for consideration.
- 1.5 The Monitoring Officer or the Deputy Monitoring Officer will be required to approve all applications for the processing of CCTV footage in relation to investigating alleged employee misconduct. Applications will only be authorised if the Monitoring Officer/Deputy Monitoring Officer is satisfied that the processing of the CCTV footage is necessary, proportionate and that there are grounds to suspect a serious complaint/incident. The application process is summarised in the flowchart attached at appendix 3 to this report.
- 1.6 The Monitoring Officer will maintain a record of all applications, authorisations and refusals. She will review this record conjunction with Internal Audit (as appropriate) on a regular basis and at least every 2 years. The Monitoring Officer will also report on the use of the Procedure to Cabinet Member for (Policing & Equalities) on an annual basis.

1.7 The proposed Procedure was considered by the Trade Union Core Group on the 8th of July 2014. Further details of this consultation are set out in paragraph 3.

2. Options considered and recommended proposal

2.1 The processing of CCTV footage without following a documented procedure does not represent good practice. In some circumstances, it may result in the Council failing to comply with relevant legislation.

2.2 Therefore it is recommended that the Cabinet Member (Policing & Equalities) approve the proposed Procedure and supporting documents for the processing of CCTV footage for investigating alleged employee misconduct attached at appendices 1-4.

2.3 The proposed Procedure will be reviewed on a regular basis and amended to reflect any changes in the organisation, good practice and or relevant legislation and or codes.

3. Results of consultation undertaken

3.1 The development of this internal Procedure has been based on guidance from the Information Commissioners Office and does not require public consultation. However, since the Procedure relates to employees, it was presented to the Unions at the Trade Union Core Group Meeting on the 8th of July 2014. On the 17th July 2014, an email was sent to all Members of TU Core Group to provide copies of the supporting documents and further information/clarification. The following issues were discussed:

- Requests to access CCTV footage from external third parties
The Trade Unions queried whether this procedure would apply to requests from third parties (e.g. the police). It was confirmed that the procedure will not apply to such requests. The Police are required to make a formal disclosure application. Any other third parties requesting access to CCTV footage are required to make an Information Sharing Request, which is considered in accordance with the Data Protection Act 1998.
- Employee Access to CCTV Footage
The Trade Unions queried how employees could access their personal data captured on CCTV footage. This would normally require the employee to make a Subject Access Request. However, if authorisation has been given to access footage to investigate alleged misconduct, the footage would be disclosed to employee concerned as part of any disciplinary proceedings. This will not override the employee's statutory right to access their data under section 7 of the Data Protection Act 1998.
- Schools
The Trade Unions said that in relation to schools there are issues regarding the filming of teachers during observations and lessons. In particular, how such data is stored and accessed. Schools are data controllers in their own right and ought to have procedures in place in relation to CCTV. However, teachers

are likely to be required to give consent to being filmed as part of observation/lessons.

The Trade Unions proposed that this Procedure should be shared with schools to promote good practice. This can be arranged following approval of the procedure.

- Training

The Trade Unions asked for clarity in the reference to 'appropriate training' within paragraph 9.1 of the Procedure.

Training would focus on the lawful use of CCTV, the process for accessing CCTV footage and the Council's obligations in relation to data protection. All employees who are involved in the management of CCTV will be required to attend the training.

- Retention of footage

The Unions requested that there be a clear communication that footage should be destroyed after 30 days. It was confirmed that footage will be retained in accordance with the Employee Industrial Relations Section of the Corporate Retention and Disposal Schedule. This requires such footage to be retained for a maximum of 30 days.

Where footage is accessed to investigate alleged employee misconduct, footage will be destroyed following the conclusion of the investigation and any subsequent disciplinary proceedings.

- Declaration form

The Trade Unions queried who would be required to sign the declaration form referred to at paragraph 9.2 of the procedure and what was the declaration form for. The declaration will be signed by those employees who manage CCTV footage to confirm that they understand the legislative requirements and the content of the Procedure for accessing footage to investigate alleged misconduct of employees.

- Review

The Trade Unions suggested that a review is conducted to confirm the locations of all Council CCTV for the purposes of this Policy.

- Application and Authorisation.

They asked for confirmation as to who would deal with applications and authorisation. Steve Mangan will make applications as the Internal Audit and Risk Manager, which will be approved by Christine Forde as Monitoring Officer or Helen Lynch as Deputy Monitoring Officer.

At the next meeting of TU Core Group on 19th August 2014 it was confirmed that the supporting documents to the Procedure and additional information had been circulated to all members of the Group. No further comments have been received.

4. Timetable for implementing this decision

- 4.1 Upon approval of the Procedure a communication will be sent out via the Beacon Daily Roundup and Core Brief processes to inform staff of the Procedure, which will be published to the Council's HR Intranet pages.
- 4.2 Upon approval of the Procedure, the Council will collate statistical information relating to the authority's processing of CCTV footage for alleged employee misconduct, which will be published on the Council's Internet page in order to support its commitment to the openness and transparency agenda.

5. Comments from Executive, Resources

- 5.1 Financial implications – There are no direct financial implications .
- 5.2 Legal implications – Recorded images of living, identifiable individuals constitutes personal data. Therefore, the Council must ensure that the processing of CCTV footage is in accordance with its obligations under the Data Protection Act 1998.

The processing 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 processing must be both necessary and proportionate.

Processing CCTV footage for alleged of employee misconduct in accordance with the proposed Procedure will ensure that the Council complies with its obligations under the Data Protection Act 1998, the Human Rights Act 1998 and the Information Commissioner's guidance on CCTV, the Information Commissioner's Employment Practice Code, and the Surveillance Camera Code of Practice 2013. .

6. Other implications

- 6.1 Failure to carry out the processing of CCTV footage for alleged employee misconduct in accordance with the proposed Procedure may render any evidence gathered inadmissible in any subsequent disciplinary/criminal proceedings.
- 6.2 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).

Such processing of CCTV footage for employee misconduct will help support the Council by assisting to prevent and detect a potential crime and or assist in the investigation of alleged employee misconduct.

6.3 How is risk being managed.

The requirement for the Council to seek Monitoring Officer/Deputy Monitoring Officer approval for any proposed processing of CCTV footage reduces the risk of the Council unfairly and unlawfully processing personal data. This will help ensure that the rights of employees are protected and any evidence obtained from such use will be admissible in a disciplinary and or a court of law.

6.4 What is the impact on the organisation.

There is no additional impact on the Council.

6.5 Equalities / EIA

This Procedure has been developed to ensure that when it is necessary for CCTV footage to be processed to investigate alleged employee misconduct, employees are treated in a consistent and fair way to ensure compliance with the Equalities Act 2010”

6.6 Implications for (or impact on) the environment.

There are no implications on the environment.

6.7 Implications for partner organisations.

There are no implications on partner organisations.

Report author(s):**Name and job title:** A. Bajaj, Senior Solicitor, Legal Services.**Directorate:** Resources**Tel and email contact:** 024 7683 3085 anjeli.bajaj@coventry.gov.uk;

Enquiries should be directed to the above.

Contributor/approver name	Title	Directorate	Date sent out	Date response received or approved
Contributors:				
S. Mangan	Audit & Risk Manager	Resources Directorate	12/11/14	12/11/14
U Patel	Governance Services Officer	Resources Directorate	12/11/14	12/11/14
J Bilen	HR Business partner	Resources Directorate	12/11/14	12/11/14
G Carter	Senior Solicitor	Resources Directorate	12/11/14	12/11/14
Names of approvers for submission: (officers and members)				
Rachel Sugars	Finance Manager	Resources Directorate	18/12/14	18/12/14
H Lynch	Place & Regulatory Team Manager	Resources Directorate	12/11/14	18/12/14
S Lal Assistant	Director, HR & Workforce Services	Resources Directorate	22/12/14	5/01/15
Councillor Townshend	Cabinet Member for Policing and Equalities	Coventry City Council	07/01/15	07/01/2015

This report is published on the council's website:

www.coventry.gov.uk/councilmeetings**Appendices:**

1. Processing of CCTV footage for alleged employee misconduct Procedure
2. Processing of CCTV footage for alleged employee misconduct Form: Authorisation for processing CCTV footage for alleged employee misconduct.
3. Flowchart: Requesting CCTV data for cases of alleged employee misconduct
4. Declaration Form