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Cabinet Member for Policing and Equalities

24 September 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:**

Annual Report of the use of the Covert Surveillance of Employees Policy and Procedure and Processing CCTV Footage: Alleged Employee Misconduct Procedure

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**Is this a key decision?**

No

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**Executive summary:**

To update the Cabinet Member for Policing and Equalities on the use of the Covert Surveillance of Employees Policy and Procedure and Processing CCTV Footage: Alleged Employee Misconduct Procedure.

**Recommendation:**

The Cabinet Member is recommended to:

- (1) Note the position outlined in the report;
- (2) In light of the limited use of these procedures, to request that the Monitoring Officer provide a report to the Cabinet Member for Policing and Equalities on an annual basis identifying the number of applications made through these procedures 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:**

None

**Other useful documents:**

None

**Has it or will it be considered by scrutiny?**

No

**Has it, 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:**

Annual Report of the use of the Covert Surveillance of Employees Policy and Procedure and Processing CCTV Footage: Alleged Employee Misconduct Procedure

**1. Context (or background)**

- 1.1 When these procedures were approved (i.e. Covert Surveillance of Employees Policy and Procedure in March 2013 and the Processing CCTV Footage: Alleged Employee Misconduct Procedure in January 2015), it was agreed that the relevant Cabinet Member would receive an annual report of activity through these procedures. Given the limited number of requests received, it has been determined that a combined report would provide a better overview of both proactive and reactive approaches used by the Council in response to potential employee misconduct through these procedures.
- 1.2 Covert Surveillance of Employees Policy and Procedure – The procedure is based initially around a concern being raised with Human Resources and Internal Audit around employee conduct. If after considering this matter, the Chief Internal Auditor determines that covert surveillance is appropriate, an application is completed and submitted to the Monitoring Officer or Deputy Monitoring Officer for consideration.

Over the last year, only two applications have been made under this procedure. In one of these cases, this was raised as an enquiry rather than through a formal application as the urgency of the issue required an immediate view on whether the application would likely to be approved or not. Whilst the number of applications is low, this needs to be considered in the context that the procedure was never intended to be used significantly given:

- The expectation that covert surveillance of employees should only be undertaken in exceptional circumstances.
- The type of serious malpractice incidents where surveillance would be considered is limited.
- Employee surveillance activity over the last few years has been limited to on average two or three requests a year.

The two applications were both raised by management in the Place Directorate and related to concerns that employees were taking unapproved absence during the working day and not recording / declaring this on timesheets. Both of the applications were rejected as it was determined that not all reasonable alternatives (i.e. further management actions to substantiate and address concerns) to surveillance had been considered. Whilst the option is available to resubmit applications once all reasonable alternatives have been considered, no further applications have been made in these cases.

- 1.3 Processing CCTV Footage: Alleged Employee Misconduct Procedure – If a Manager wants to access CCTV footage to investigate alleged employee misconduct, they must liaise with the Council's Chief Internal Auditor. 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 to the Monitoring Officer or Deputy Monitoring Officer for consideration. It is worth noting that as CCTV is generally in public areas, the level of intrusion is less when compared with covert surveillance.

Over the last year, five applications have been made. These are summarised in the table overleaf.

Table One: Summary of CCTV Applications in respect of alleged employee misconduct

Ref	Directorate	Alleged Incident	Application Approved / Rejected	Outcome
1	Place	Theft	Approved – No alternative options left as investigation had identified no further lines of enquiry.	CCTV provided no evidence
2	People	Altercation between two Council officers	Approved – Both employees agreed to footage being accessed in order to provide clarity on the incident.	CCTV inconclusive
3	People	Theft	Approved – No alternative options to pursue issue.	CCTV inconclusive
4	Place	Theft	Approved – No alternative options to pursue issue.	CCTV provided no evidence
5	People	Inappropriate use of Council asset	Approved – Employee agreed to footage being accessed in order to provide clarity on the incident and this view was supported by Investigating Officer.	N/A – Investigation on-going at time of report

## 2. Options considered and recommended proposal

The Cabinet Member is recommended to:

- (1) Note the position outlined in the report;
- (2) In light of the limited use of these procedures, to request that the Monitoring Officer provide a report to the Cabinet Member for Policing and Equalities on an annual basis identifying the number of applications made through these procedures 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.

## 3. Results of consultation undertaken

- 3.1 Whilst the recommendations in this report do not require consultation to be undertaken, we have shared the report with Trade Unions given their involvement in developing both of the procedures.

## 4. Timetable for implementing this decision

- 4.1 There is no implementation timetable as this is a monitoring report.

## **5. Comments from the Executive Director of Resources**

### **5.1 Financial Implications**

There are no direct financial implications associated with this report.

### **5.2 Legal implications**

Both procedures can involve the processing of personal data (e.g. recording movements of employees) and therefore, the Council must ensure it complies with the requirements of both the Data Protection Act 1998 and Human Rights Act 1998. Under Article 8 of the Human Rights Act, everyone has the right to respect for his private and family life, his home and his correspondence. To satisfy Article 8, the processing of requests through these procedures must be both necessary and proportionate. Through adherence to the procedures in place, the Council will ensure it applies with its obligations under both acts as well as complying with the Information Commissioner's guidance on CCTV, the Information Commissioner's Employment Practice Code, and the Surveillance Camera Code of Practice 2013 in respect of CCTV usage.

### **5.3 Human Resources Implications**

Failure to comply with these procedures is likely to render any evidence obtained inadmissible in any subsequent disciplinary or legal proceedings; and may lead to disciplinary action against the employee who has not followed the procedures.

## **6. Other implications**

### **6.1 How will this contribute to achievement of the council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / LAA (or Coventry SCS)?**

Any approved applications made through these two procedures will help support the Council by assisting to prevent and detect a potential crime and or serious malpractice in respect of employees.

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

The requirement for the Council to seek Monitoring Officer / Deputy Monitoring Officer approval for any applications made through these two procedures and reporting to Cabinet Member reduces the risk of the Council unfairly and unlawfully processing personal data and / or undertaking 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**

Both procedures have been developed to ensure that when it is necessary for CCTV footage to be processed or surveillance to be undertaken in respect of alleged employee misconduct, employees are treated in a consistent and fair way to ensure compliance with the Equalities Act 2010.

## 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 the partner organisations.

### Report author(s):

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#### Directorate:

Resources

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Enquiries should be directed to the above person.

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