

WIRRAL COUNCIL

AUDIT AND RISK MANAGEMENT COMMITTEE

18 MARCH 2014

SUBJECT:	CODE OF PRACTICE FOR THE OPERATION OF CLOSED CIRCUIT TELEVISION
WARD/S AFFECTED:	ALL
REPORT OF:	HEAD OF LEGAL AND MEMBER SERVICES
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

- 1.1 This report submits for the Committee's approval a Code of Practice for the operation of closed circuit television.
- 1.2 It is derived from the Home Office Surveillance Camera Code of Practice which was issued in June 2013. Sections 30 and 33 of the Protection of Freedoms Act 2013 require every local authority to have due regard to its contents in carrying out its functions.
- 1.3 The proposed Code of Practice also incorporates the guidance issued by the Information Commissioner in 2008 on how CCTV systems should be operated in order to comply with the Data Protection Act 1998 and the Human Rights Act 1998.
- 1.4 If adopted by the Committee the proposed Code of Practice should demonstrate the Council's compliance with the above legislation provided of course its provisions are implemented.

2.0 BACKGROUND AND KEY ISSUES

- 2.1 The Council has installed CCTV in many of its buildings and also in public places.
- 2.2 There are three control rooms in the Cheshire Lines Building. One room monitors cameras on traffic lights and other places which are intended to detect any problems arising from traffic signal and control. A second control room is operated in conjunction with Merseyside Police. Its cameras are located in public places and are intended to detect and deter criminal offences and threats to public safety. A third control room is used to monitor infringements of Road Traffic Regulations detected by overt cameras in vehicles.
- 2.3 In addition there are CCTV systems installed in many of the Council's buildings intended to prevent and detect crime and to promote the safety of the public. The Anti-Social Behaviour Team operates a community reassurance vehicle equipped with overt CCTV.
- 2.4 The common features of all these systems is that they are overt ie openly operated with full knowledge of the public. They must not be covert ie sited in such a way that the public is unaware of their presence. If they are covert they must comply with the separate Policy and Procedure published by the Council on covert surveillance under the Regulation of Investigating Powers Act 2000 (RIPA). In addition prior approval of a magistrate would be required as explained in that Procedure.

- 2.5 Although the CCTV cameras are overt and not hidden the images they capture may constitute personal data under the Data Protection Act 1998. Furthermore the images could potentially amount to an interference with a member of the public's right under Article 8 of the European Convention on Human Rights in respect of his or her private life.
- 2.6 Guidance is therefore required to ensure officers do not infringe the above legislation when they operate overt CCTV systems. At present there are a number of specific codes relating to particular types of CCTV eg those intended to enforce traffic and parking regulations, or to monitor behaviour of the public in public places. What is lacking is an overarching Code of Practice which sets out general principles that must govern the use of CCTV in all its applications and which complies with the recommendations of the Home Office Surveillance Camera Code of Practice.
- 2.6 The proposed Code of Practice is intended to fill that gap.

3.0 PRINCIPAL ELEMENTS OF THE PROPOSED CODE OF PRACTICE

- 3.1 The proposed Code of Practice for the Council is attached at Appendix 1. It is meant to be a concise easily digestible summary of the Home Office Code of Practice which is attached at Appendix 2.
- 3.2 The two documents are complementary to each other.
- 3.3 An inventory is being prepared by the Asset Management Department of all the CCTV systems in use. Paragraph 3 of the draft Code requires the Chief Executive and the Strategic Directors to ensure there is a designated person responsible for compliance with the Code in respect of each separate system.
- 3.4 Paragraph 5 requires there to be consultation with those likely to be affected before any new CCTV system or additional cameras are installed. The outcome of that consultation should inform the contents of a privacy impact assessment which should be undertaken before any decision is taken on installation. The assessment weighs up the benefits of the installation in achieving its purpose against any likely infringements of a person's privacy.
- 3.5 The above exercise should be carried out annually in respect of existing installations in accordance with paragraph 8 of the draft Code. The relevant Head of Service should designate the managers responsible for the annual reviews and the Internal Audit Section should carry out periodic spot checks of compliance with the Code.
- 3.6 Paragraph 6 of the draft Code sets out the requirements for ensuring there are adequate notices displayed warning people of the operation of CCTV.
- 3.7 Any complaints about the use of overt CCTV should be investigated in accordance with the Council's Complaints Procedure, and the outcome reported to this Committee.
- 3.8 Paragraph 7 of the Draft Code requires management to designate persons;
- (a) who should have access to retained images;
 - (b) who are authorised to disclose retained images to a third party (eg the police);

and to draw up procedures suitable for each specific system which regulate the proper and secure disclosure of the images to third parties.

- 3.9 Paragraph 7 further requires management to designate persons to deal with subject access requests for copies of the images from persons whose property or personal images have been recorded by the CCTV system.

4.0 RELEVANT RISKS

- 4.1 Drawing up a Code of Practice to comply with Home Office and Information Commissioner Guidance is only the first step.
- 4.2 Implementation of the Code of Practice will require management time and resources when the Council is having to economise on both in order to keep within its budget.
- 4.3 The risks are that compliance with the Code will be regarded as a low priority which could lead to;
- (a) an adverse report by the Surveillance Commissioner when he carries out his next visit and inspection of the Council;
 - (b) successful claims against the Council for breaches of the Data Protection Act 1998 and the Human Rights Act 1998;
 - (c) images of CCTV cameras being ruled inadmissible as evidence in prosecutions for offences or civil proceedings for anti-social behaviour.
- 4.4 It is therefore important that management set up and maintain systems and detailed procedures which automatically cover all the points for action contained in the Code. The annual reviews will be the key element which should ensure compliance. If they are ignored or neglected the Code will become no more than a well meaning statement of intent honoured more in the breach than in the observance.

5.0 OTHER OPTIONS CONSIDERED

- 5.1 There are none.

6.0 CONSULTATION

- 6.1 The Draft Code has been drawn up after consultation with officers from the relevant departments who were members of a working party set up in November 2013 and chaired by a solicitor.
- 6.2 The Code contains provisions for consultation with the public on existing and future installation of CCTV systems.

7.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 7.1 None.

8.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

- 8.1 The Strategic Directors consider the cost of compliance with the Code can be met from within existing resources.

9.0 LEGAL IMPLICATIONS

9.1 The adoption of a Code is an essential legal requirement as explained in the draft Code itself and in paragraph 4.3 above.

10.0 EQUALITIES IMPLICATIONS

10.1 Compliance with the Code affects all members of the community regardless of their “protected characteristics” (eg race, gender, disability, age).

11.0 CARBON REDUCTION IMPLICATIONS

11.1 None.

12.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

12.1 Compliance with the Code of Practice will ensure that CCTV systems protect the public from crime and disorder without contravening the legislation safeguarding personal data and privacy.

13.0 RECOMMENDATION/S

13.1 That the Committee approve and adopt the Code of Practice on overt CCTV.

13.2 That the Committee instruct management to put systems in place to ensure compliance with the Code.

13.3 That the Committee instruct management to ensure annual reviews of all existing CCTV systems are undertaken with priority being given to reviews of systems in buildings and places to which the public have access which are to be completed by no later than the end of June 2014.

14.0 REASON/S FOR RECOMMENDATION/S

14.1 Compliance with Sections 30 and 33 of the Protection of Freedoms Act 2012.

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REFERENCE MATERIAL

None other than the Codes of Practice published by the Home Office and the Information Commissioner on CCTV.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
None	