

Key Decision Required:	Yes	In the Forward Plan:	Yes
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CABINET

23 APRIL 2021

JOINT REPORT OF THE PORTFOLIO HOLDER FOR HOUSING AND THE PORTFOLIO HOLDER FOR CORPORATE FINANCE AND GOVERNANCE

A.4 ADOPTION OF THE CCTV CODE OF PRACTICE

(Report prepared by Head of Customer and Commercial Services)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

The purpose of this report is to introduce the Tendring District Council CCTV Code of Practice and the Surveillance Camera Commissioner’s 12 Guiding Principles to Cabinet, that they may officially adopt these documents on behalf of the Council.

EXECUTIVE SUMMARY

At the end of December 2018 the Internal Audit team reviewed the working practices with regards CCTV systems within the Council. A ‘moderate risk’ was found and an improvement notice was issued. Since this time a CCTV Code of Practice has been drafted (attached as appendix 1) and a new set of Operational Procedures (appendix 2) written. Both the Code and the Operational Procedures have been endorsed as fit for purpose by the Internal Audit Manager. The Corporate Enforcement Group, the Assistant Director (Governance), the Information Governance and IT Services Manager, and the Safer Communities Manager have also been consulted and their comments incorporated within the Code.

The Code of Practice takes into consideration the Surveillance Camera Commissioner’s 12 Guiding principles (attached as appendix 2 to the Code of Practice) and gives CCTV operators a framework to work within. The new set of Operational Procedures will cover every CCTV camera that the Council owns, including the cameras within our own premises, and as such will offer support and guidance to any Officers across the Council that have to use CCTV as part of their role (i.e. Facilities Management, Leisure Centres).

As per direction from the Surveillance Camera Commissioner, the Council should adopt a CCTV Code of Practice, which is published on the corporate website, and communicated to all staff that need to comply with it. At this point the new Operational Procedures should be rolled out across the Council, along with a training programme, so that all departments are following the same rules.

Once the Code is adopted we can apply for a third-party accreditation that would show any specific areas where we should improve our systems and procedures or perhaps engage an external professional expert from NASCAM (National association of Surveillance Camera Mangers). In advance of this there are known areas that will need attention:

- In consultation with our partners in Essex Police, and also through public engagement, we should review the CCTV System yearly to ensure it is meeting its stated aims. This review would also include the current location of our fixed CCTV cameras and any specific areas of crime where a new camera location (either a fixed

or rapid deployment) should be considered. This is overdue but will commence once the Code is adopted.

- Many of our cameras are old and do not have the privacy software that can be used to pixelate any areas where the cameras are looking directly at a residents' premises. Although the cameras are generally sited to cover public open spaces there are a number of instances where private addresses are overlooked. Currently we mitigate this issue with the privacy and confidentiality training that our staff undertake however these old cameras will need to be replaced to actually address this issue fully.
- CCTV training is overdue for Operators in the Control Centre, but also has never taken place for other responsible officers around the Council. An in-house training programme will need to be developed and rolled-out across the Council.
- A number of cameras have been identified as no longer meeting the aims and objectives of the CCTV system and have been taken out of commission. A future decision will be required as to whether these cameras are removed completely or replaced. It is proposed that this decision is made as part of the annual review.

In the future, there may be the need for further cameras to be added if knowledge of new crime or anti-social behaviour hot spots becomes apparent. At the outset the Council's Senior Responsible Officer (SRO) for CCTV will be notified of this knowledge which may be derived from information received from our colleagues in Essex Police, or directly from services within the Council, such as Parking, Housing or Environmental Services. The SRO will instigate a discussion between the Assistant Director (Partnerships), in consultation with the Portfolio Holder for Housing, and any other relevant Portfolio Holder and Assistant Director or Head of Service, dependent on the nature or location of the circumstances in accordance with the CCTV Code of Practice.

Any future decision to deploy cameras will be taken with due regard to the 12 guiding principles to ensure a reasonable and proportionate response and recorded accordingly.

RECOMMENDATION(S)

That Cabinet:

- adopts the CCTV Code of Practice for Tendring District Council and the 12 Guiding Principles, as set out in Appendix A;**
- delegates authority to the Assistant Director (Partnerships) to deploy future cameras and decide their location in accordance with the Code of Practice and the 12 Guiding Principles; and**
- subject to (b) above, such decision will only be made in consultation with the Portfolio Holder for Housing and the Council's Senior Responsible Officer for CCTV, following a compliant proposal being submitted by the relevant Assistant Director or Head of Service, who in their turn will have consulted with the relevant Portfolio Holder, dependent on the nature of the circumstances.**

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Delivering High Quality Services

- Public spaces to be proud of in urban and rural areas

- Effective regulation and enforcement

Community Leadership Through Partnerships

- Law and Order - for a safer community

A Growing and Inclusive Economy

- Support existing businesses

Building Sustainable Communities for the Future

- Vibrant Town Centres

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

There is no specific financial or other resources risk around adopting the CCTV Code of Practice however it should be understood that once it is adopted a review of the service will be undertaken. This review, along with any future decision to purchase new equipment or deploy further cameras, may have financial implications which should be discussed as part of the decision making process.

Risk

Messaging from the Surveillance Camera Commissioner now states that local authorities should adopt a CCTV Code of Practice and publish this, along with their procedures. There is a reputational risk for TDC if we do not adopt the Code of Practice.

There is also the risk that if the Code is not adopted, any evidence we produce for Essex Police in a prosecution could be called into question if presented at court.

LEGAL

There is a legal requirement for TDC to produce and adopt a CCTV Code of Practice.

The Council has a legal duty under Section 33(1) of the Protection of Freedoms Act 2012 (2012 Act) to have regard to the Code of Practice issued by the Secretary of State under Section 30 of the 2012 Act. The statutory Code of Practice provides guidance on the appropriate and effective use of surveillance camera systems by relevant authorities (as defined by section 33 of the 2012 Act) in England and Wales who must have regard to the code when exercising any functions to which the code relates.

The purpose of the code will be to ensure that individuals and wider communities have confidence that surveillance cameras are deployed to protect and support them, rather than spy on them. The government considers that wherever overt surveillance in public places is in pursuit of a legitimate aim and meets a pressing need, any such surveillance should be characterised as surveillance by consent, and such consent on the part of the community must be informed consent and not assumed by a system operator. Surveillance by consent should be regarded as analogous to policing by consent.

In order to achieve this, the code sets out guiding principles that should apply to all surveillance camera systems in public places. These guiding principles are designed to provide a framework for operators and users of surveillance camera systems so that there is proportionality and transparency in their use of surveillance, and systems are capable of providing good quality images and other information which are fit for purpose.

This code provides guidance on the use of surveillance camera systems but does not replace or remove any statutory obligations on operators or users of such systems to comply with the provisions of both the Data Protection 2018 Act and the Regulation of Investigatory Powers Act 2000.

The Surveillance Camera Commissioner for England & Wales oversees local authorities compliance with the 2012 Act and in September 2020 issued a letter to all Councils with a number of recommendations to follow prior to further inspections being undertaken. A clear recommendation was to ensure that authorities consider whether there are sufficiently robust governance and oversight arrangements across the authority. The adoption of the Code of Practice for Tending and Operating Procedures goes towards meeting this recommendation.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.

The adoption of the CCTV Code of Practice will have a positive impact on the Council's ability to aid in the prevention, detection and prosecution of crime and disorder. The 12 guiding principles set out an operating procedure that will allow Essex Police the confidence to declare that any evidence has been produced following these guidelines.

It will also have a positive impact in terms of public perception.

CLIMATE CHANGE

There is no specific impact, either positive or negative, on the Council's net zero emissions target as a result of these decisions.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The Control Centre manages the overt monitoring (passive), recording and downloading of CCTV images for circa 166 cameras around the district (although some of the cameras are currently inactive due to GDPR issues), these include our high footfall areas, areas of particularly high crime, and our own sheltered housing stock. The Control Centre has a full wall of screens showing images from various sites and also houses a server whereby images are recorded and retained for 30 days for evidential purposes. There are also other stand-alone CCTV systems that are not able to be controlled or viewed from the Control Centre. These are recording at the location of the system (e.g. Northbourne depot, Jaywick Enterprise Centre); A full list of active cameras is contained with the Code of Practice (appendix 3 of the Code). The Control Centre was purpose built by TDC at Barnes House, Pier Avenue in 2010 and since that time the number of cameras has grown.

In June 2013 the Camera Surveillance Commissioner published a Code of Practice which contains 12 Guiding Principles. Although initially the adoption of the Code was purely voluntary more recent communications from the Commissioner have stated that local Councils 'should' adopt the Code. These communications were followed up in January 2020 with a survey of all local Councils in order to ascertain which had adopted and published the Code of Practice.

The TDC Code of Practice will cover every CCTV camera that TDC own. These include those cameras in fixed positions, any rapid deployment cameras that we may utilise and drones. A separate set of procedures is being drafted specifically for Body Worn Cameras and will be added to the Code before any use of these cameras commences.

CURRENT POSITION

The current position is that even though the Code of Practice has yet to be adopted, TDC does pay close regard to it and its 12 Guiding principles and has put in place mitigations where it is not able to strictly adhere. It is the desire of the CCTV management team to review the service and make further recommendations with regards delivery. Cameras are being maintained and repaired as part of a contract with an external CCTV contractor, and as budgets allow, and CCTV Operators are in regular contact with colleagues within Essex Police.

It is the desire of the Corporate Enforcement Group that the Council should begin to use rapid deployment cameras and body worn cameras in an overt way to act as a deterrent against anti-social behaviour and as a tool for prosecution where the deterrent has been unsuccessful. There is currently a working group looking to produce a specific set of procedures for Body Worn Cameras and once these are in place it is very likely that the Council will utilise these different surveillance methods and cameras in order to protect our staff, our assets, and our District.

Essex Police do utilise the CCTV footage that we record and there is a desire between both parties to work more closely together. In future we shall develop a Service Level Agreement framework between the two parties as part of the National Surveillance Camera Strategy.

FURTHER HEADINGS RELEVANT TO THE REPORT

N/A

BACKGROUND PAPERS FOR THE DECISION

N/A

APPENDICES

Appendix 1. TDC CCTV Code of Practice and Surveillance Camera Commissioner's 12 Guiding Principles

Appendix 2. CCTV Operating Procedures