

Thurrock Council

CCTV public identification policy

1. Introduction

1.1. Thurrock Council – Vision:

Thurrock Council's vision is to create an ambitious and collaborative community which is proud of its heritage and excited by its diverse opportunities and future. The council's core priorities below reflect this ambition and cuts across the council's community safety partnership strategy on reducing crime and disorder in the borough.

- People – a borough where people of all ages are proud to work and play, live and stay
- Place – a heritage rich borough which is ambitious for its future
- Prosperity – a borough which enables everyone to achieve their aspirations

1.2. The Environmental Protection Act 1990, Crime and Disorder Act 1998 and Anti- Social Behaviour Crime and Policing Act 2014, set out the civil and criminal offences for enviro-crime and anti- social behaviour. These legislative framework were designed to address activities/behaviours which affect the quality of life of local residents and a deterrent for those who commit them.

1.3. In 2017, the council adopted an Enforcement Policy. The policy sets out the council's approach to enforcement, adopting a firm but fair approach which is considerate, proportionate, transparent and consistent.

1.4. This public identification policy provides the framework of where, how, when and against who we will use media to help identify any offenders of anti-social behaviour / environment crime who are not known or could not be identified by any other means.

2. Scope of policy

2.1. This policy covers:

- the publication of images of those people who commit criminal anti- social behaviour and enviro-crime where they cannot be identified by any other means
- publication of descriptions of individuals of groups where there is intelligence related to persistent anti-social behaviour or enviro-crime, where the persons cannot be identified by any other means

Both actions require every possible step is taken to ensure that the person or persons are not under the age of 18. Publication in such circumstance will be considered as a last resort and only used where all other means of identification have taken place.

2.2. This approach will enable the council and its partner agencies to actively encourage local communities and businesses to take a stand against the inconsiderate behaviour of a minority of people, whose actions blight a local area.

3. Aims of the policy

3.1. The publicity of cases or images related to enviro-crime and anti-social behaviour offer a valuable approach in preventing, detecting crime, and protecting the public from harm. The purpose of this policy is to assist the council in deciding whether such a cause of action is necessary and proportionate. The aims are to:

- provide clear and consistent guidance in establishing if it is necessary and proportionate to make a disclosure
- ensure that the council acts in accordance with general public law principles, and with national guidance
- ensure that the council fully considers data protection legislation and the human rights act
- protect the public and the public realm

4. General principles of using publicity in anti-social behaviour and environmental crime cases

- 4.1. It is important to highlight that the ability for the council to publicise images for the purpose of preventing and detecting crime is defined through a legislative framework. The framework includes:
- Data Protection Act 2018 – replaced DPA Act 1988 – this provides provision about the processing of personal data. The CCTV team will process personal data in compliance to data protection principles. Under law enforcement processing purposes it provides agencies the ability to share information for the prevention, investigation, detection or prosecution of criminal offences including criminal penalties.
 - Crime and Disorder Act 1998 – Section 115 – provide statutory agencies, including the council, with the ability to disclose information where it is necessary and expedient for the purposes of addressing anti- social behaviour crime and disorder.
 - Criminal Justice and Public Order Act 1994 Section 163 – provides local authorities with the power to record visual images in order to "promote the prevention of crime or the welfare of the victims of crime".
 - Local Government Act 1972 – Section 111 – provides local authorities with the power do anything "which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions." This power enables the local authority to release/publish images ("do anything") with a view to identifying offenders ("facilitate, conducive or incidental to") who have fly tipped or committed anti- social acts, so that they may be prosecuted, fined or cautioned ("discharge of any functions").
 - Human Rights Act 1998 – Article 8 – cover the right to a private life and would include a requirement for the local authority to balance the need to publicise images, the extent of publicity and the impact of publicity, specifically for vulnerable groups.
 - CCTV Code of Practice 2014 provides guidance to local authorities on the use of CCTV in public areas and the requirements to meet and protect the personal data of anyone captured on CCTV.
- 4.2. There must be a balance between the rights of an individual suspect and those of the wider community. Any decision to release an image must be for a legitimate purpose, be necessary and proportionate.
- 4.3. Any decision to release an image must take into account any impact on victims or witnesses. The release of images must be necessary for a legitimate purpose and early consultation with the Police and the council's Legal Services is encouraged.

- 4.4. A legitimate purpose may include, but is not limited to:
- the prevention and detection of crime
 - encouraging witnesses and/or victims to come forward
 - discouraging offenders
 - reassuring and informing the public
 - reinforcing confidence in the criminal justice system
 - identification of offenders
 - raising public awareness
- 4.5. The council recognises that poor quality images can run the risk of misidentification and this must be considered at all times.
- 4.6. In order for a release of the image to be necessary in pursuit of a legitimate purpose, all other reasonable means of tracing or identifying the suspect must have failed to be deemed not viable. A further consideration is that only the minimum necessary details are released, for example where there is a group of individuals out of which only one has been identified as offending, only the identified offender's image should be released.
- 4.7. All of the circumstances of the case must be taken into account when considering whether it is proportionate to release the images. The nature of the offence will be highly relevant, and the more serious the offence the easier it will be to justify the release as proportionate. The following factors may also be considered:
- nature of the offence
 - age
 - vulnerability of the perpetrator
 - vulnerability of any potential victims
 - level of impact on the environment
 - level of impact on the public/community and/or individuals
 - prevalence of local crime
 - repeat offending
 - public interest

5. Investigating complaints using CCTV images

- 5.1. Council officers investigating complaints that include CCTV public images must consider the impact on people's privacy if the images are to be shared with third parties.
- The investigating officer is responsible to ensure using CCTV images in this way is justified, necessary and proportionate. It will be a requirement to obscure the faces of other people – for example, third parties that can be seen in the images to prevent unwarranted identification.
- 5.2. This process requires authorised officer[s] documenting their reason for disclosing a CCTV image and have this logged on the case file to ensure that information is used for its intended purpose to detect or prevent crime.
- 5.3. The council will block out intrusive footage of individuals and identifiable property where it may cause unwarranted harm or distress. Intrusive includes images of any identifiable private residential premises or any identifiable private vehicle captured during the CCTV incident not to be shared during this process.

- 5.4. Where it is not necessary to retain information/CCTV footage then it will be deleted in accordance to our Document Retention Policy and procedures.
- 5.5. Officers will follow the Police and Criminal Evidence Act 1984 codes of practice when interviewing the suspect under caution about the alleged offence[s] when investigating complaints using CCTV images

6. Procedure for publicising anti-social behaviour and enviro-crime offences

- 6.1. The following key criteria will be used in assessing appropriateness of using images of anti-social behaviour and enviro-crime.
- Publicising is in the public interest either due to the scale, location or impact of the offending behaviour.
 - No person known to be under the age of 18 will be named, or identified, in any publicity related to enviro-crime or anti-social behaviour.
 - Individuals with a known vulnerability, or businesses, or companies, or where there is a risk that a family member could become vulnerable through publicity, will not be placed in the public domain.
 - No images which could incite community tensions will be publicised. This will be considered in partnership with the Police and community safety partners.
 - No cases will be publicised which could result in any complainant or victim being identified. Where images are to be used such as CCTV images, these can only be published where they have been obtained through a public body, such as the council or Police and not a third party, such as a private individual or private business. Images must be clear and innocent parties are suitably obscured before images are disclosed to the media or published on the local authority's website.
 - Such images, or description of offenders, will only be publicised where the person or persons cannot be identified by any other investigative means. However, in such cases, the council will undertake checks with relevant services such as social care, Essex Police, etc. to ensure the person or persons identified is not a vulnerable person, at risk, or is under the age of 18.
 - Prior to any publicity, officers will ensure that the case does not form part of a wider investigation by another partner agency or council service such as Environment, Waste, Anti-Social Behaviour, Housing, Legal or the Police. Consultation with these services will take place prior to the images or descriptions being released. This security check is recorded on the form in Appendix A.
- 6.2. Care will be taken when releasing images of unknown offenders to ensure that the wording accompanying the image is accurate. Officers will take all necessary steps to ensure that they have a high degree of confidence that the person in the image is a clear suspect in the investigation.

Where the individual is known, it is unlikely to be appropriate to release the image, although there are always exceptions and the council will seek specific legal advice before images of known individuals are released. Other means of tracing the individuals will need to have been exhausted first.

Officers should record the rationale for the decision to release the CCTV visibly within the investigation or other case management file. The council will not consider releasing images of offenders where the image is not clear and there is insufficient evidence to prosecute or issue a penalty notice in relation to the offence.

7. Decision to publish image procedure

- 7.1. A simple criteria form (Appendix A) will be used by the lead officer in all cases.

Once the form has been completed the details of the case will be provided to Legal Services to confirm that there are no legal concerns in terms of publicity.
- 7.2. The details will also be sent to safeguarding children and adult leads to verify if any named person is known to them. No publication will take place until checks with the council's Children and Adult Safeguarding leads has taken place.
- 7.3. The officer will check if the person[s] identified does not form part of a wider investigation by another partner agency or council department.
- 7.4. The process will require a final approval by the relevant Strategic Lead /Senior Manager of the relevant service.
- 7.5. There will be a requirement that the person making the application retains a copy of the form and any images. The CCTV control room will also be required to maintain any application form and images requested for publicity.
- 7.6. The CCTV team will maintain a log of all anti-social behaviour and enviro-crime cases which have been published. This will include details of any CCTV images, where and when they were obtained, the date and time of any alleged offence.
- 7.7. The communications team will maintain a list of all press releases in relation to the publication of CCTV images which are available on the council's website at www.thurrock.gov.uk

8. Identification of a person through the publicising of images or descriptions person committing anti-social behaviour or enviro-crime offences

- 8.1. On the occasions when an individual is identified following the release of the images to the council, the communications team will inform the media that identification has been made, and similarly update the council's website. If the person has been recognised and reported to the Police, however, we will work together with them on informing the media. Under no circumstances will the identification of the individual be released to the media or otherwise published on the council's website.
- 8.2. If an individual featured in the images comes forward and is subsequently eliminated from enquiries, the communications team will be informed immediately so that the council's website and the media can be updated accordingly.
- 8.3. Identification issues will also be considered. The suspect may be the subject of another investigation and it is possible the release of an image could compromise identification evidence in relation to another enquiry.
- 8.4. In such circumstances, the officers will follow Code D of the Police and Criminal Evidence Act 1984. If there is any doubt, legal services will be consulted prior to release of any images or further information.

9. Working with partners

- 9.1. Where appropriate, the images of descriptions of anti-social behaviour or enviro-crime, will be coordinated with other regulatory bodies and enforcement agencies. We will share intelligence with the Police, neighbouring boroughs and other regulatory enforcement agencies where it is appropriate in the prevention and detection of crime. This will include undertaking joint prosecutions.

10. Equal opportunities and diversity

- 10.1. The council recognises the diversity of our community and enforcement activities will have due regard to the Equality Act 2010.

11. Review of policy

- 11.1. We will review this policy and update it to reflect changes in its source documents and controlling bodies annually. We will also review its effectiveness in supporting the council's and the community's priorities.
- 11.2. We will consult with stakeholders before and after making any changes to this policy.

12. Monitoring arrangements

- 12.1. The council will monitor the activities set out in his policy through existing established reporting and management processes.

13. Complaints

- 13.1. Thurrock council provides a well published complaint procedure. This is accessible on the council website at www.thurrock.gov.uk/complaints
- 13.2. The complaints process will consider any complaints received following a disclosure under this policy.

Appendix A

Security check form to be completed before taking a decision to publicise anti-social behaviour and enviro-crime offences

This form is confidential and has been removed from the public policy.