

## APPENDIX 1

### **The 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 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 ASB/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 or 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 enviro-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 with 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 CCTV images are produced to high definition standards to prevent the risk of misidentification. No substandard or unclear images will be released under this policy framework.
- 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 e.g. third parties that can be seen in the images to prevent unwarranted identification.

- 5.2 This process requires authorized 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 environ-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 publicized. This will be considered in partnership with the Police and community safety partners.
- No cases will be publicized 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 publicized 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, ASB, 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](http://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. However, if the person has been recognised and reported to the Police, 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 <https://www.thurrock.gov.uk/complaints/how-to-complain>
- 13.2 The complaints process will consider any complaints received following a disclosure under this policy.



## Appendix A

### MEDIA PUBLICITY PRO-FORMA CHECKLIST

Strictly confidential

#### NOTE:

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.

Officers will obtain advice from the Police and Legal services before considering the publication of prolific or potentially dangerous offenders

This document must be completed before the release of any CCTV images for use in identifying offender's via media publication and use in public areas.

Images of minors (under 18 years) must not be released under any circumstances.

Any offenders that are considered as under age must be released to the Police and Council Officers only.

#### CCTV Images Only

Will the use of images help identify any offenders of ASB/enviro-crime who are not known or could not be identified by any other means?

Yes

No

Is the image[s] of good quality with third parties/ property / private business obscured before images are disclosed?

Yes

No

The release of any publicity, including images must be necessary for a legitimate purpose. Confirm which legitimate purpose(s) it is for and why?

PURPOSE	Yes/No	If Yes, please state why?
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		

### **Proportionality**

Is the proposed action proportionate in relation to releasing the images to the effects of the offence(s)?

- Yes
- No

How serious is/are the offence(s) - was harm caused - if so, was it minor and was it a single incident?

Has the offence been investigated within a reasonable time?

- Yes, please explain
- No, please explain

Was there an element of fraud, negligence or recklessness?

- Yes
- No

Has there been a blatant disregard for Legislation / the Law? Please state

### **Consistency / equitable**

Have we acted fairly?

- Yes
- No

**Public interest**

Is the action being taken within the statutory time limit in relation to the offence?

- Yes
- No

Is there sufficient evidence to prove the offence(s)?

- Yes
- No

Is the offence serious enough that prosecution or financial penalty is required?

- Yes
- No

What impact / risks has the offence had on the community?

Are there any financial effects on the community?

- Yes
- No

Was there any danger caused by the offence?

- Yes
- No

Have community concerns been taken into account?

- Yes
- No

Is the offence widespread in the area where it was committed?

- Yes
- No

### Risk Assessment

Are there any known risks in releasing this image[s] in the public domain?

	Yes/No	How to mitigate the risk
Age of the person suspected below 18 years old		
Vulnerable suspect		
Impact on the safety of the witness[s]		
Impact on the safety of the wider community		
Known to Children services		
Known to Adult services		
Legal		
Business name and reputation		
Wider investigation by another partner or council department		

LAG (Local Area Tasking Group) Decision to publish image

- Yes
- No

Date	

Legal Advice Decision to publish image

Legal Officer	Date

Please state where images are stored?

CCTV control room	
ASB Team	
Tenancy Management	
Waste Enforcement	
Communications	

Do the needs of the individual or those persons responsible for the business; outweigh the needs of others in respect of detecting enviro-crime/ASB or preventing similar cases happening in the future? (Article 8 of the Human Rights applies).

- Yes
- No

It is recommended to use the image in the following ways:-

The individual/business photo is shown on a 'need to know' basis between agencies and witnesses.	
The description or image of a person/persons' unknown is published	
Local Press Release	
National Press Release	
Newsletter	
Social Media	
Notification to other agencies as appropriate	
Nothing to be published	

Any further information

Signed:	
Print name:	
Job Title:	
Date:	

Print Name of Service Manager	
Job Title	
Signed	
Date:	