

CABINET

Thursday, 15 September 2022

APPROVAL OF COUNCIL'S CORPORATE POLICY AND PROCEDURES FOR THE USE OF BODY WORN VIDEO DEVICES

Report of the Legal Services Manager

Recommendation

It is recommended that

- (1) **Cabinet approves the adoption of the 'Corporate Policy and Procedures for the use of Body Worn Video Devices', which sets out the statutory framework and procedures which permit the Council's lawful use of this overt surveillance technique to assist staff in carrying out their duties.**
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Summary

The Corporate Policy and Procedure for the use of Body Worn Video Devices (BWV Policy) (Annex 1) facilitates the Council's use of BWV in carrying out its duties. The policy sets out the statutory framework and procedures that permit the Council's lawful use of this overt surveillance technique, whilst ensuring the Council complies with all relevant legislation and does not infringe a person's rights under Article 8 of the Human Rights Act 1998 (HRA), except as may be permitted by Article 8(2). Consequently, a public authority (Eastleigh Borough Council) can act in a way that is compatible with the European Convention on Human Rights 1950 (EHCR) and Human Rights Act 1998, whilst also ensuring the personal and/or sensitive data obtained from the BWV devices are processed in accordance with the UK Data Protection statutory framework.

Statutory Powers

The primary statutory framework including Orders and guidance is as follows:

- Human Rights Act 1998
- European Convention on Human Rights 1950
- Regulation of Investigatory Powers Act 2000
- Protection of Freedoms Act 2012 Part 2
- UK General Data Protection Regulation (UK GDPR)
- Data Protection Act 2018
- The Surveillance Camera Code of Practice 2013 (amended November 2021)
- The Information Commissioner's Guidance on Video Surveillance 24/2/2022
- Digital Imaging & Multimedia Procedure V3 16/11/2021

Strategic Implications

1. The use of BWV will help Council staff carry out a number of duties that contribute to the Council meeting its Corporate Plan objectives.
2. These duties, whilst not exhaustive, include:
 - Parking enforcement (Tackling Congestion);
 - Fly-Tipping investigation (Minimising Waste ; An Excellent Environment for All);
 - Animal Welfare;
 - Unauthorised encampments (An Excellent Environment for All);
 - Planning enforcement (Prosperous Place ; An Excellent Environment for All).

Introduction

3. This Corporate BWV Policy provides the statutory framework and the Council's guidance for the use of overt surveillance camera systems, namely Body Worn Video (BWV) devices, whilst ensuring the public authority does not infringe a person's Article 8 rights under the Human Rights Act 1998.
4. The use of BWV by Eastleigh Borough Council authorised staff is intended to assist in the following:
 - Prevention and/or detection of crime and/or disorder;
 - Criminal and/or civil proceedings arising out of the incident/event;
 - De-escalation of a conflict/incident/event;
 - The protection of staff who are acting in the course of their council duties;
 - Dispute resolution, for example, complaints against staff;
 - Supporting the emergency services whilst undertaking their duties;
 - Counter-Terrorism (Prevent Duty);
 - Staff development training as to best practices;
5. There are a wide variety of benefits to using BWV technology that are more particularly described in paragraph 7 of the policy attached at annex 1. For information, the list of annexes is included at the end of this report.

Audit and Resources Committee Recommendations

6. The BWV Policy was taken to Audit and Resources Committee on 19 July 2022. The Policy was recommended for Cabinet approval subject the following amendments which have been implemented:
 - Staff User Guide: The BWV Policy is a very comprehensive document. It was recommended that the procedures were extracted from the

policy to provide a staff user guide, that was easier to understand and follow for Authorised BWV Users. This can be found in Annex 3

- Training: Ensure the Policy and Staff User Guide explicitly identified the need for Officer training prior to using BWV.
- Health and Safety: Ensure policy was reviewed by the Council's Health and Safety Officer, with any resulting recommendations actioned. This has been completed and the relevant wording in the policy has been amended accordingly.

Financial Implications

7. Body Worn Video is already used by the Council's Parking Operations team. The Council currently owns 12 BWV cameras and the necessary software to facilitate its use in compliance with the Surveillance Camera Code of Practice. An additional six cameras and an associated docking station have been purchased using grant funding secured via Defra's Waste and Resources Action Programme (WRAP), at a cost of £3,600. There will be periodic capital equipment replacement costs that will be shared proportionately by the service areas using the BWV equipment to carry out their duties.

Risk Assessment

8. The adoption of this Policy and Procedure enables the Council to realise the benefits of BWV when carrying out its duties, whilst ensuring that its staff and the rights of the public are protected by complying with the relevant legislation.
9. Correct adoption of the policy and its procedures will ensure any risks associated with the use of this overt surveillance system are suitably mitigated, as it will be operated in full compliance with the relevant guidance and legislation.
10. To ensure the health and safety of Council staff, each department has specific Risk Assessments and Safe Systems of Work (SSOW) for the duties they undertake within their roles. These are reviewed at least annually and updated as required, in accordance with the Council's overarching Health & Safety Policy. If the Policy is approved by Cabinet, risk assessments and SSOW shall be updated accordingly by the areas using BWV going forward.

Equality and Diversity Implications

11. The Equality Act is relevant to the decision and an Equality Impact Assessment (EqIA) has been carried out and attached to the report (See Annex 7). In summary the EqIA identifies that:

-The primary consideration of the EqIA in the context of BWV use, is the protection of a person's Article 8 rights under the Human Rights Act 1998 –

their right to respect for their private and family life, their home and their correspondence.

12. The BWV Policy and Procedure follows the Surveillance Camera Code of Practice and sets out the Council procedures for use of BWV to protect people's right to privacy, and also ensure that the personal and/or sensitive data obtained from the BWV devices is processed in accordance with the UK Data Protection statutory framework.

Climate Change and Environmental Implications

13. The proposals have limited climate change and environmental implications, although the use of BWV will help the Council effectively and efficiently carry out some of its statutory powers related to protecting the environment, such as investigation and enforcement against fly-tipping offences and planning enforcement matters.

Conclusion

14. The use of BWV has a number of wide-ranging benefits for staff in carrying out their duties. The approval of the 'Corporate Policy and Procedure for the use of Body Worn Video' will enable the Council's lawful use of this overt surveillance technique in accordance the current legislation, whilst protecting the public's right to privacy.

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Appendices Attached: 7

LOCAL GOVERNMENT ACT 1972 - SECTION 100D

The following is a list of documents which disclose facts or matters on which this report or an important part of it is based and have been relied upon to a material extent in the preparation of this report. This list does not include any published works or documents which would disclose exempt or confidential information.

Annexes included in this report;

1. Annex 1_Body Worn Video Policy
2. Annex 2_BWV Policy Appendices 1-8
3. Annex 3_BWV Policy Appendix 5 - BWV Staff User Guide

4. Annex 4_BWV Policy Appendix 6 – BWV Third Party Data Sharing Register
5. Annex 5_BWV Policy Appendix 7 – BWV SAR Checklist
6. Annex 6_BWV Policy Appendix 8 – BWV Training Register
7. Annex 7_Equality Impact Assessment