



**London Borough of Barking & Dagenham  
Council Policy for policy for publicising  
cases of enviro-crime and anti social  
behaviour**

**2016**

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## 1. Introduction

- 1.1 The London Borough of Barking and Dagenham have agreed a number of priorities for the borough, these are:-
- **Encouraging civic pride**
  - **Enabling social responsibility**
  - **Growing the borough**
- 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 frameworks were designed to address activity which affects the quality of life of local residents and a deterrent for those who commit them.
- 1.3. In July 2016 the council adopted an Enforcement Policy. The policy sets out the councils approach to enforcement, adopting a firm but fair approach which is considerate, proportionate, transparent and consistent.
- 1.4. Establishing a policy to publicise cases of enviro-crime and anti social behaviour provides the council with a defined approach of where, how, when and against who we will use media, in line with the legislation and the Enforcement Policy.

## 2. Scope of Policy

- 2.1 This policy covers:-
- The publication of images of those people who commit 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. This will take every possible step 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.
  - prosecution cases of enviro-crime and anti social behaviour, including the name and images where it is deemed appropriate and proportionate.
- 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 Local Authority 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 openness in the reporting of criminal investigations and proceedings.
- Ensure that the Local Authority acts in accordance with general public law principles, and with national guidance.
- Ensure that the Local Authority fully considers the Data Protection Act 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 1998 – Section 29** – provides agencies with the ability to share information for the prevention and detection of crime or the apprehension or prosecution of offenders.
- **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.

- **Data Protection Act 2016** – sets out a series of principles for public bodies in relation to the retention, access and sharing of information. This includes CCTV and is supported by a code of practice for surveillance cameras and personal information, published by the Information Commissioners Office.

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 Local Authority'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 Local Authority 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 are 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 taking 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
- 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. Procedure for publicising anti social behaviour and enviro-crime offences.**

5.1 The following key criteria will be used in assessing appropriateness of using publicity, including images and publicising prosecution cases, 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.
- If a successful prosecution has been achieved at court and the other criteria has been considered, publicity can be used, setting out the case, the fine and convicted offender(s). However the decision to publicise in such cases will be based on the public interest and not for purposes of naming or shaming a person, company or organisation.
- 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 cases which could incite community tensions will be publicised.
- 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 means. However, in such cases, the council will undertake checks with relevant services 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

services, such as the Metropolitan Police Service, Environment Agency or legal services. Consultation with these services will take place prior to the images or descriptions are released.

- Publicity will only take place in an area which is proportionate to the offence.
- 5.2. The process for publicising enviro-crime and anti social behaviour will be the same, whether the council or its partner agencies are looking to identify a person, or persons, whose actions are having an impact on the quality of life of local people, or where a case has been successfully prosecuted.
  - 5.3. Care will be taken when releasing images of unknown suspects 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.
  - 5.4. Where the individual is known, it is unlikely to be appropriate to release the image, although there are always exceptions and the Local Authority 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.
  - 5.5. Officers should record the rationale for the decision to release the CCTV visibly within the investigation or other case management file.
  - 5.6. 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.
  - 5.7. 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.
  - 5.8. The process will require a final approval by the relevant strategic director, operational director for enforcement services, director of public health, or the director of law and governance.
  - 5.9. 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.
  - 5.10. A log will be maintained by the communications team 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.

## **6. Identification of a person through the publicising of images or descriptions person committing anti social behaviour or enviro crime offences**

- 6.1. On the occasions when an individual is identified following the release of the images, the communications team will inform the media that an identification has been made, and similarly update the Local Authority's website. Under no circumstances will the identification of the individual be released to the media or otherwise published on the Local Authority's website.
- 6.2. 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 Local Authority website and the media can be updated accordingly.
- 6.3. 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. 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.

## **7. Working with Partners**

- 7.1. Where appropriate, the publicity of cases, 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.

## **8. Equal Opportunities and Diversity**

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

## **9. Review of Policy**

- 9.1. 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.
- 9.2. We will consult with stakeholders before and after making any changes to this policy.



## 10. Monitoring Arrangements

- 10.1. The council will monitor the activities set out in his policy through established reporting and management processes. This will form part of the report Community Safety Partnership performance report which is produced on a quarterly basis.

## Appendix A

### Media Publicity Pro-forma Checklist