

TEWKESBURY BOROUGH COUNCIL

Report to:	Overview and Scrutiny Committee
Date of Meeting:	12 October 2021
Subject:	Use of Mobile Surveillance Equipment for Fly-Tipping Investigations
Report of:	Principal Environmental Health Officer
Corporate Lead:	Head of Community Services
Lead Member:	Lead Member for Clean and Green Environment
Number of Appendices:	None

Executive Summary:

Mobile surveillance equipment such as rapid deployment cameras and covert cameras is widely deployed by local authorities to help tackle environmental crime, particularly fly-tipping. The use of cameras offers several advantages over traditional investigation methods and has resulted in impressive enforcement outcomes for several authorities. However, despite the clear benefits there are several potential drawbacks associated with the use of mobile surveillance equipment that need to be carefully considered.

This report reviews the options available to the Council in terms of the use of mobile surveillance equipment in connection with fly-tipping investigations. An indication of the estimated direct costs associated with each option is provided together with an appraisal of the relative advantages and disadvantages.

Recommendation:

To CONSIDER the options available to the Council in terms of the use of mobile surveillance equipment in connection with fly-tipping investigations and to note that option 2, as set out at Paragraph 3 of the report, will be trialled for a six month period with the results of the trial being reported back to the Overview and Scrutiny Committee to inform a final recommendation to the Executive Committee on the way forward.

Reasons for Recommendation:

Effective environmental crime enforcement remains an ongoing and key priority for the Environmental Health Team. Successful use of mobile surveillance techniques may allow the Council to investigate a greater number of fly-tipping incidents and improve the prospect of achieving significant prosecution outcomes.

Resource Implications:

The use of mobile surveillance equipment will incur direct costs for the Council. The extent of these costs is outlined in the body of this report. Any costs for the pilot will be met from existing budgets / reserves.

Legal Implications:

The use of mobile surveillance equipment is governed by the following statutes:

- The Human Rights Act 1998
- The Environmental Protection Act 1990
- Regulatory and Investigatory Powers Act 2000 (RIPA)
- The Data Protection Act 2018
- The General Data Protection Regulation 2018

One Legal and the Councils General Data Protection Regulation (GDPR) Officer will be consulted prior to the use of any mobile surveillance equipment

Risk Management Implications:

A reputational risk to the Council may arise from incorrect use of the cameras and failure to follow RIPA and data protection guidelines. One Legal and the Council's GDPR Officer will be consulted prior to the use of any mobile surveillance equipment.

Performance Management Follow-up:

Performance of the use of mobile surveillance equipment will be monitored by the Environmental Health Manager and Principal Environmental Health Officer.

Environmental Implications:

Successful use of the cameras may act as a deterrent for fly-tippers and may result in long term benefits to the environment.

1.0 INTRODUCTION/BACKGROUND

1.1 In 2017 the Council prepared an action plan to address rising levels of environmental crime within the borough, particularly fly-tipping. This included a commitment to increase the level of enforcement action and prosecution of offenders. In this respect the Council has made a significant improvement and, in recent years, a number of individuals have been successfully prosecuted for fly-tipping offences.

1.2 Despite the progress made, several communities within the borough continue to experience unacceptable levels of fly-tipping. Furthermore, this situation appears to have worsened significantly during the COVID-19 pandemic period. For example, in the year 2019/20, Ubico collected 403 fly-tips in the borough compared to 1,094 collections in 2020/21. This increase during the pandemic is consistent with the national picture for fly-tipping.

- 1.3** To combat fly-tipping, many local authorities have turned to the use of mobile surveillance equipment. This commonly takes the form of overt rapid deployment cameras or concealed covert cameras. The use of camera surveillance by local authorities has resulted in significant enforcement outcomes including custodial sentences and large fines.
- 1.4** The vast majority of the fly-tips reported to the Council do not contain evidence indicating the provenance of the waste. Therefore, unless a witness provides photographic or video evidence, it is difficult for investigating officers to identify the individuals responsible. A key advantage of mobile surveillance equipment is that it can overcome this problem by directly capturing footage of the individuals depositing material together with vehicle registration details. A second benefit of mobile surveillance is that it can provide high quality evidence to demonstrate the seriousness of the offence and therefore may increase the prospect of offenders receiving significant sentences from the court.
- 1.5** In general, the disadvantage of using mobile surveillance equipment is that the hardware, and software, to operate the cameras can be expensive and costs will also be incurred in terms of support from the company supplying the cameras and officer training. Furthermore, it should be noted that use of mobile surveillance equipment is unlikely to result in overnight success and cannot be relied upon to guarantee successful enforcement outcomes.
- 1.6** The surveillance will initially be undertaken on a six month trial basis and will be funded by the financial reserves held by the Head of Community Services.
- 1.7** The Council has the option to apply to the court for costs incurred in connection with successful fly-tipping investigations. Therefore, it is possible that successful prosecution outcomes may help to offset the costs of the camera equipment. However, the awarding of costs cannot be guaranteed and is often dependent on the financial status of the defendant. Therefore, this cannot be relied upon by the Council as a means of recovering the costs of the surveillance.
- 2.0** **OPTION 1 – USE OF COVERT CAMERAS WITHOUT SIGNAGE**
- 2.1** This option would involve the use of trail cameras which will be concealed at the target site, without any accompanying signage. The clear advantage of this method is that the absence of a deterrent such as signage may increase the chance of fly-tipping taking place and therefore improve the likelihood of obtaining the quality of evidence required to achieve the desired enforcement and prosecution outcomes.
- 2.2** The main disadvantage with this method is that fully covert surveillance is a highly specialised activity and may require a successful application to court under the Regulatory Investigatory Powers Act 2000. Therefore, this option will involve costs in terms of officer training. Furthermore, there is the potential for the cameras to capture footage of innocent third parties. This presents a significant reputational risk to the Council should the covert surveillance be undertaken incorrectly and not in accordance with relevant legislation.

2.3 The estimated direct cost for the Council to implement option 1 are as follows:

- Training for two officers on RIPA procedure = £300
- Training for two officers on use of the cameras and associated equipment = £240
- Purchase of two trail cameras with enclosures and memory cards = £1,000
- Installation assistance from the camera supplier = £240

Total estimated costs for the six month trial = £1,780

Total estimated ongoing equipment servicing costs = £150 per annum

3.0 OPTION 2 – USE OF COVERT CAMERAS WITH SIGNAGE

3.1 This option would involve the use of concealed trail cameras at the target site with the presence of the cameras advertised by signage. The advantage of this method of surveillance is that it is unlikely to require RIPA authorisation and therefore should require less resources in terms of officer training and input from One Legal compared to option 1. A further advantage of this method is that the trail cameras are relatively inexpensive compared to rapid deployment cameras and modern versions can be monitored remotely without the need to regularly replace memory cards.

3.2 The disadvantage of this option is that it may incur additional costs should new signage be required, and officers will still require training on technical aspects of the camera use. Furthermore, the presence of signage may act as a deterrent and therefore compromise the ability to obtain the quality of evidence required to achieve the desired enforcement outcomes.

3.3 The estimated direct cost for the Council to implement this option is as follows

- Purchase of new signage = £250
- Purchase of two trail cameras with enclosures and memory cards = £1,000
- Training for two officers on use of the cameras and associated equipment = £240
- Installation assistance by the camera supplier = £240

Total estimated cost for the six month trial = £1,730

Total ongoing equipment servicing costs = £150 per annum

4.0 OPTION 3 – USE OF OVERT RAPID DEPLOYMENT CAMERAS WITH SIGNAGE

4.1 This option would involve the use of overt dome cameras which can be installed at a site at very short notice if required. The presence of the cameras will also be advertised by signage in the general area. The advantage of this method is that it would provide officers with the flexibility to respond immediately to any new sites that appear to be subject to recurrent fly-tipping without having to remove fixed cameras from other locations. A further advantage of this method is that the cameras would only be on-site for a relatively short period and would not require as intensive on-site maintenance as is the case for covert cameras.

4.2 The main disadvantage of this option is that the equipment is more expensive than covert cameras and will need to be installed by the camera supplier each time the cameras are relocated. Secondly, the presence of the overt cameras and signage may act as a deterrent and therefore reduce the ability of the Council to obtain sufficient evidence to achieve successful prosecutions. Furthermore, the deterrent effect of the overt cameras and signage may simply displace the fly-tipping to another location.

4.3 The estimated direct cost to the Council to implement this option is as follows

- Purchase of new signage = £250
- Purchase of mid-range rapid deployment camera with housing and wi-fi connectivity = £3,429
- Training for two officers on use of the camera and associated equipment = £240
- Installation and connection by camera supplier £720 (assuming the camera is used at two different locations during the 6 month trial)

Total estimated cost for the six month trial = £4,399

Total estimated ongoing annual servicing and installation costs = £1,500 per annum.

5.0 PREFERRED OPTION

5.1 Option 2 has been selected as the preferred option for the six month trial because it is considered to represent the most cost effective option and will provide the Council with the ability to obtain the desired quality of evidence, whilst at the same time avoiding the potential risks associated with the use of fully covert cameras.

5.2 The results of the trial will be reported back to the Overview and Scrutiny Committee to inform a final recommendation to the Executive Committee on the way forward.

6.0 OTHER OPTIONS CONSIDERED

6.1 None

7.0 CONSULTATION

7.1 One Legal
GDPR Officer
Finance

8.0 RELEVANT COUNCIL POLICIES/STRATEGIES

8.1 Environmental crime action-plan 2017
Corporate Enforcement Policy 2018
Data Protection/GDPR Policy

9.0 RELEVANT GOVERNMENT POLICIES

9.1 Surveillance Camera Code of Practice 2013
Information Commissioners CCTV Code of Practice 2014
Regulatory Investigatory Powers Act 2014

10.0 RESOURCE IMPLICATIONS (Human/Property)

10.1 The six month trial period will require resources in terms of officer time. The impact of this on the ability of the Environmental Health team to deliver other priorities will be monitored by the Environmental Health Manager and Principal Environmental Health Officer. The costs for the pilot will be met from existing budgets / reserves.

11.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

11.1 Should the project achieve significant prosecution outcomes then this may serve as a deterrent to fly-tippers and may result in long term environmental improvements within the borough.

12.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

12.1 Human Rights – The use of mobile surveillance equipment will need to be undertaken in accordance with data protection legislation to protect individuals’ privacy rights.

12.2 Health and Safety – The use of mobile surveillance equipment will be subject to a risk assessment and undertaken in accordance with relevant corporate health and safety policies.

13.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

13.1 None

Background Papers: None

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Appendices: None