

DARTFORD BOROUGH COUNCIL
Policy for Publicising Environmental
Crime, Criminal Behaviour Orders,
Verdicts and Sentences

1. Introduction

- 1.1 The primary function of Dartford Borough Council's regulatory and enforcement work is to protect the public, public funds, the environment and groups such as consumers, residents, tenants, workers and businesses. At the same time, carrying out such activity in an equitable, practical and consistent manner helps to maintain a level playing field for local businesses, individuals and its other service users. Good regulation and enforcement will help to promote a thriving local economy and a safer and more enjoyable environment.
- 1.2 The effectiveness of legislation in protecting consumers, businesses and the community depends crucially on the compliance of those regulated.
- 1.3 The Council has a wide range of responsibilities and powers in respect of dealing with anti-social behaviour – dealt with across Council departments, but mainly within three distinct service areas – the Community Safety Unit, the Housing Service and the Environmental Health Service. Whilst they are three distinct service areas, there are very strong links between them and close working arrangements have been developed and continue between these service areas to protect communities from anti-social behaviour and to promote a safe living environment.
- 1.4 The Council has adopted specific policies that set out its approach to its regulatory and enforcement work. These policies provide a firm but fair approach which is considerate, proportionate, transparent and consistent. Policies encourage prevention, promote detection and identify a pathway for reporting and investigation.

Examples (not an exhaustive list):

- **Environmental Enforcement Policy** - highlights the Council's responsibility to maintain a clean environment for all, but recognises that this cannot be achieved without the support of the local community and the need for people to take personal responsibility for their actions. The Council is committed to maintaining a clean and safe environment for the benefit of everyone in the Borough of Dartford. The presence of dumped waste, litter, dog fouling, graffiti and other environmental crime detracts from the image of the area and can have an adverse impact on inward investment as well as being a potential health hazard, whilst also contributing to the perception and fear of crime;
- **Environmental Health Enforcement Policy** - aims to protect and improve public health, the environment and the quality of life for everyone who works, lives or visits the Borough of Dartford with specific focus on animal welfare, environmental protection, food safety, health and safety at work, pest control, pollution control and public health;
- **Planning Enforcement Plan** - is focused on protecting the community against harmful development;

- **Counterfraud and Corruption Strategy** - arrangements for the proper administration of the Council's financial affairs includes the prevention, detection and investigation of fraud and where appropriate, the prosecution of offenders. The Council is focused on strong prevention and deterrence of fraud through its anti-fraud activities. The Strategy is primarily designed to improve resilience to fraud and to create a strong counter-fraud culture which highlights the Council's zero-tolerance approach to fraud and bribery;
- **Private Sector Housing Enforcement Policy and Licensing Policy** – sets out the general principles which will be applied in relation to enforcement action that is necessary to improve housing conditions in the Borough;
- **Anti-Social Behaviour Policy** – aims to inform tenants and members of the public about the measures that will be used by the Council as a landlord to address anti- social behaviour issues in relation to its housing stock and tackling problems by working together with a range of Council departments and agencies.

1.5 Supplementing the policies with an additional policy to publicise on the internet, in leaflets, Council newsletters and/or through the media, images of offenders, environmental crime, criminal behaviour orders, verdicts and sentences, will provide the Council with a defined and legitimate approach, in the public interest to (but not limited to):

- prevent and detect crime;
- identify offenders;
- encourage witnesses and/or victims to come forward;
- enable the Council and its partner agencies to actively encourage/engage local communities and businesses to take a stand against the inconsiderate behaviour of a minority of people, whose actions blight the Borough of Dartford;
- increase trust and confidence in the Council by ensuring greater openness in the reporting of criminal investigations and proceedings;
- improve the effectiveness, transparency and accountability of the Council's enforcement related activities;
- reassure the public;
- encourage the release of images to the media where appropriate and at the earliest opportunity;
- discourage offending and/or re-offending.

1.6 The **internet** provides many more opportunities to make information readily available to the public, but alongside these increased opportunities, come a number of data protection and human rights issues that need to be considered in advance. In the majority of cases, publication should be straightforward with no legal implications. However, a small number of cases may raise concerns. This Policy for Publicising Environmental Crime, Criminal Behaviour Orders, Verdicts and Sentences (**the Policy**) explains those issues to help manage risks. This Policy also applies to the publication of injunctions (where a court orders that a person or an entity either do

something or refrain from doing something).

2. Meaning of personal data

- 2.1 Personal data is information that relates to an identified or identifiable individual¹, such as a name, address, vehicle registration number, image, verdict and sentence or other identifiers such as an IP address or a cookie identifier. If it is possible to identify an individual directly from the information being processed, then that information may be personal data.

When considering whether information 'relates to' an individual, a range of factors must be taken into account, including the content of the information, the purpose or purposes for which the Council is processing it and the likely impact or effect of that processing on the individual.

- 2.2 Criminal offence data covers a wide range of personal information including:

- criminal activity;
- alleged commission of offences;
- investigations; and
- proceedings.

When processing criminal offence data, a clear distinction must be made between different categories of personal data, such as people who are:

- suspected of having committed, or about to commit, a criminal offence;
- convicted of a criminal offence;
- individuals who are, or are suspected of being, victims of a criminal offence;
- individuals who are witnesses, or can provide information, about a criminal offence.

The UK GDPR, Data Protection Act 2018 and Human Rights Act 1998 considerations will be relevant to any decision to publish images, environmental crime, criminal behaviour orders and verdicts and sentences.

3. Legal gateways (not an exhaustive list)

- 3.1 **Environmental Protection Act 1990** - places a duty on the Council to investigate complaints that could be a 'statutory nuisance' and to take action where the Council is satisfied there is a statutory nuisance.
- 3.2 **Anti - Social Behaviour Crime and Policing Act 2014** - addresses activity which affects the quality of life of local residents and provides the Council with a means (through prosecution, warnings, formal cautions and injunctions), to deter those who

¹ Article 4(1) of the UK GDPR

commit them.

- 3.3 **Section 17 of the Crime and Disorder Act 1998** - places a duty on the Council to 'exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.'
- 3.4 **Fraud Act 2006** - prosecutions for offences connected with a failure to report a change in circumstances and making a false statement.
- 3.5 **Housing Act 2004** - prosecutions for operating a licensable HMO without a licence.
- 3.6 **Prevention of Social Housing Fraud Act 2013** - prosecutions for offences committed against the Council as a landlord e.g. subletting the whole of a social rented dwelling.
- 3.7 **Housing Act 1985** – provides absolute grounds for possession (granted by the court) of Council owned accommodation let under secure and flexible tenancies, where a tenant is:
 - convicted of a serious offence;
 - found by a court to have breached a civil injunction;
 - convicted for breaching a criminal behaviour order;
 - convicted for breaching a noise abatement notice;
 - where a tenant's property has been closed for more than 48 hours under a closure order for anti-social behaviour.

4. General considerations

- 4.1 As with any issues that impact on human rights, there must be a balance between the rights of an individual offender and those of the wider community. Each case must be considered on its own merits. Any decision to publicise an image, environmental crime, criminal behaviour order and verdicts and sentences must be for a **legitimate purpose (see section 1.4 of this Policy)**, be **necessary**, and **proportionate**.

[Bloomberg LP v ZXC \[2022\] UKSC 5](#) (16 February 2022) provided confirmation, that the legitimate starting point is that a person under criminal investigation has, prior to being charged, a reasonable expectation of privacy in respect of information relating to that investigation.

Necessity – There should be a correlation between the purpose of publicity and the necessity test: i.e. what is the least interference with privacy that is possible in order to promote the purpose identified e.g. in order to prosecute an offender, their image needs to be released as other means of tracing the individual have failed or are not viable or the type of crime in general, is of particular local concern.

Details publicised must be the minimum necessary to achieve the intended purpose (for example, publicising a photograph of person, but not of them *and* their family).

Proportionality - any decision to publicise a must be proportionate. All the circumstances of the case may be relevant in deciding whether it is proportionate to publicise the information. In particular, the nature of the offence will be highly relevant. The more serious the offence, the easier it will be to show that any decision to publicise is proportionate, but it does not follow that the offence, in itself, needs to be a serious one. Where the offence is not serious, any decision to publicise may still be proportionate, if one of the following factors is present:

- prevalence of local crime;
- community/public interest;
- 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;
- repeat offending.

Human rights - publication of images, environmental crime, criminal behaviour orders and verdicts and sentences, engages Article 8 (right to respect for private life) of the European Convention on Human Rights and therefore potentially raises issues under the Human Rights Act 1998. However, the Convention explicitly allows the Council to interfere with an individual's Article 8 rights, if it is necessary and proportionate to do so for the prevention of crime. This will be a judgement call for the Council.

The risk to the public from a prolific offender will usually support the publication of images, environmental crime, criminal behaviour orders and verdicts and sentences in certain circumstances. However, a decision to publicise must take into account any impact on other individuals (**see 'Exceptional cases' at section 5.7.4 of this Policy**).

4.2 The **processing of criminal offence data** is subject to the Council:

- being satisfied that the processing is necessary for the purpose it has identified;
- being satisfied there is no other reasonable and less intrusive ways to achieve the purpose;
- identifying a specific condition(s) for processing in Schedule 1 of the Data Protection Act 2018;
- having an [Data Protection Policy](#) in place in order to meet a Schedule 1 condition(s) for processing;
- being aware of the risks of processing by completing a data protection impact assessment; and

- publicising a [privacy notice](#) detailing the lawful bases and legal gateways for processing the data.

5. Verdicts and sentences - case outcomes² (see Decision Check List at Annex A to this Policy)

- 5.1 As they are a matter of public record, as a general principle, there should be a presumption in favour of publicising verdicts and sentences of Crown and Magistrates' Courts in the majority of criminal cases. This includes fines, community sentences, absolute and conditional discharges, and Financial Reporting Orders and Travel Restriction Orders, where these are imposed as part of a sentence. It is a reasonable expectation that a member of the public should be able to obtain information about the outcome of a case, whether as a victim of crime, a witness in a case, a member of a community affected by crime or someone concerned about local crime. There is also a legitimate public interest in payments made by offenders under the Proceeds of Crime Act 2002.
- 5.2 In the majority of cases, the decision-making process will be straightforward. Officers will routinely take decisions about publicising case outcomes **and basic personal information about convicted offenders (name, age, offence and summary – rather than full – address)**³. It is generally safe to assume that if a court did not impose reporting restrictions, there is no legal impediment to publicising the outcome of the case.
- 5.3 If **reporting restrictions or other statutory restrictions have been imposed in a case**, the scope of any publicity must be limited by the terms of the restrictions, which must be adhered to scrupulously. It is important to remember that some courts may have standing reporting restrictions that may not be separately recorded with the outcomes of individual cases. **In particular, there is a presumption that reporting restrictions will apply in criminal cases where the defendant is a juvenile (under 18)**, unless explicitly lifted, or a court might impose specific restrictions, for example, in order to protect witnesses, or if the defendant is involved in other criminal proceedings, where identity may be an issue.
- 5.4 The way in which a case outcome is publicised may, however, be affected by **statutory restrictions designed to protect the vulnerable**. Exceptionally, a particular case may raise specific legal questions or concerns.
- 5.5 Particular care should be taken if disclosure of a sentencing outcome also **reveals personal information about a person other than the offender**. Any decision to publish third party information must be in consultation with the Data Protection Officer

² Criminal Justice System - Publicising Sentence Outcomes – guidance for public authorities on publishing information (including via the internet) about individual sentencing outcomes within the current legal framework – June 2011

³ There can be a presumption that 'basic' personal information e.g. name, age, offence and summary address (but not full address) – can be released unless there are clear reasons to the contrary (these reasons should be surfaced by answering the questions on the checklist at Annex A

and with due regard to the guidelines issued by the Criminal Justice System⁴.

Where the publicity is via the Council's website, details of how to apply to have information removed from it should be made available (see '**Risks and Safeguards**' at section 5.7.4 of this Policy).

- 5.6 Publicity should never give rise to a **contempt of court**. This is because contempt of court can only apply to proceedings, which are 'active' (Contempt of Court Act 1981 s2(3)). Proceedings cease to be active when sentence has been passed. However, proceedings can become active again if an appeal has been commenced, and they stay active until the appeal is resolved.

Under no circumstances should Officers report trials or appeals while they are in progress.

5.7. Exceptional cases

5.7.1 There may be exceptional cases where disclosure would not be appropriate. As referred to above, in most cases, if a court has not considered it necessary to impose reporting restrictions, it is safe to assume that disclosure is permissible.

5.7.2 In some cases, where a court did not impose formal reporting restrictions, disclosure may nevertheless cause harm (for instance, where the relevant facts were not before the court at the time). It might not be appropriate to disclose information where:

- it could be used to identify victims or witnesses, especially if this would cause the victim undue embarrassment or distress, or place them at risk of suffering reprisals from friends or associates of the offender, or expose them to unwanted media or public attention. Victims should always be consulted about proposed publicity and made aware of possible press coverage;
- it could be used to identify offenders' families (over and above a surname that they share with the offender), especially if disclosure would place them at risk of harm (e.g. reprisals);
- the offender is known to have a specific vulnerability (e.g. mental health issues or physical ill health), which might mean that publicising the conviction risks unwarranted adverse consequences (i.e. not simply that the offender objects to the publicity). This may arise in particular if the sentence includes a drug or drink rehabilitation order or a mental health disposal;
- the offender is a juvenile (under 18);
- community tensions may be incited;
- wider disclosure could undermine a police or partner agency investigation.

5.7.3 Even in such cases, it does not necessarily follow that it is inappropriate to disclose any information at all. For instance, it might be possible to address the concern by limiting the information to a small number of individuals (e.g. the community affected

⁴ Supra

by the crime), by disclosing it in a meeting or leaflet rather than on the Council's website, so it will only be seen by people in the local area and it will be less easy to copy, or in a particular case, it may be possible to reassure a community by making it known that a conviction for a specific offence has been secured without the need to disclose personal information (for instance, it might be possible to give details of the sentence without disclosing that the sentence involved a mental health disposal).

5.7.4 Risks and safeguards

- (a) Sentencing outcomes should be published as soon as possible. Delays increase the risk that a sentence may become spent before it is publicised or removed from the Council's website and that publication may therefore breach the provisions of the Rehabilitation of Offender's Act 1974 - this does not apply to publicising convictions of companies.
- (b) Communicating personal information online will achieve wider publicity and impact than by other means, but may also have long-term adverse consequences for ex-offenders if information about their offence is accessed after it has been removed from the Council's website or social media sites, as it can be. For this reason, online publicity needs to be justified, and will not usually be appropriate for minor offences/sentences or for first time offenders.
- (c) The longer that information is retained on the website, the greater the opportunity there is for that information to:
- be misused or subjected to secondary processing by third parties;
 - become out of date and/or inaccurate.
- (d) The Council's retention period for the publication of offender images, environmental crime, criminal behaviour orders and verdicts and sentences on its website and other social media sites, is 28 days.
- (e) When details of sentencing outcomes are posted on the Council's website or any other publicity material, the following informative will be included:
- 'This information is made available for a limited period in order to promote the openness, transparency and accountability of the Council's enforcement activities, in the public interest. It is made available solely on the basis that it is for the individual use of the person who has accessed this page. The information on this web page must not be stored, recorded, republished, or otherwise processed (e.g. shared, retweeted etc.), without the explicit agreement of Dartford Borough Council' [contact comms@dartford.gov.uk]⁵
- (f) Where a subsequent appeal against a conviction is successful, details of the original conviction that have been placed on the website and other publicity material must be

⁵ The Communications Team must obtain the relevant Director's approval

removed. This should be done as soon as practicable. Details of successful appeals against convictions or sentences should be included in subsequent publicity.

- (g) Care must be taken to ensure that information published is accurate, to minimise the risk of mistaken identity. Even correct information could lead to an innocent person being wrongly identified by a third party as the offender if, for instance, there is another person locally with the same name and/or the same partial address as the offender.

6. Images

6.1 Images include CCTV, photographs and other similar media. In general, a decision about how and where an image is issued should reflect the need to protect and inform the public as well as prevent further offences.

6.2 Poor quality images can run the risk of misidentification and this must be considered at all times.

6.3 In order for the publication of the image to be **necessary** in pursuit of a legitimate purpose, other reasonable means of tracing or identifying the suspect will have been carried out. 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.

All of the circumstances of the case must be taken into account when considering whether it is **proportionate** to publicise the image. The nature of the offence will be highly relevant, and the more serious the offence the easier it will be to justify the publication as proportionate.

The publication of a photograph might be justified if:

- the offender is known by sight in the area, but not generally by name;
- residents would need to see a photograph to be reassured that this particular offender has been convicted or will be prosecuted;
- the offences were so prevalent and/or of such concern to the community that it is felt only publication of a photograph could reassure the public that they had been or will be brought to justice;
- seeing the offender's image is likely to encourage victims of and witnesses to other offences to come forward.

6.4 If an individual featured in the image comes forward and is subsequently eliminated from enquiries, the Council's website, social media etc. must be updated forthwith.

- 6.5 **Identification issues** – the offender may be the subject of another investigation and it is possible that the publication of an image could compromise identification evidence in relation to another enquiry. In such circumstances, Officers will follow Code D of the Police and Criminal Evidence Act 1984.
- 6.6 **Naming and shaming-‘ wall of shame’** – subject to first attempting to trace offenders via other means where reasonably practical, the Council may decide to name and shame individuals seen on its CCTV (overt cameras), carrying out ‘grime crimes’.

Members of the public may be encouraged to visit an online page and help identify offenders caught on camera. Once offenders have been identified, the Council then takes measures necessary, in the public interest, to ensure they are prosecuted.

When attempting to identify an individual, there should be no inference of guilt or that the individual is a suspect. Instead, the individual is just someone ‘who may be able to assist the Council’, or who ‘may have information that will help with the investigation’, or wording to a similar effect.

Images and footage of offenders, provided by residents and/or images and footage from the Council’s overt CCTV, may be publicised on social media, primarily Facebook, Twitter and Instagram.

- 6.7 **Post conviction**, there may be demand from the media (and from the public) for information and this may include releasing an image of offenders, with details of open court criminal behaviour orders and verdicts and sentences.

The publication of images at this stage, could assist with deterring potential offenders and preventing subsequent crime, as well as encouraging other victims and witnesses to come forward.

- 6.8 **Recording decisions** - all decisions, including the reasons, to publicise images must be recorded (**see Annex A to this Policy**) Care should be taken to ensure any image released and accompanying details are as accurate and up to date as possible. Rationales and other records relating to the release of images as part of an investigation, may be subject to disclosure under the Criminal Procedures and Investigations Act 1996.

7. **Criminal behaviour orders (CBOs)⁶ (replacing anti-social behaviour orders)**

- 7.1 CBOs tackle the most serious and persistent anti-social individuals where their behaviour has brought them before a criminal court. The anti-social behaviour to be addressed does not need to be connected to the criminal behaviour, or activity that led to the conviction. However, if there is no link, the court will need to reflect on the reasons for making the CBO.

⁶ [New guidance on the use of the Anti-social Behaviour, Crime and Policing Act 2014 - GOV.UK](#)

- 7.2 A CBO can deal with a wide range of anti-social behaviours following the offender's conviction, for example threatening violence against others in the community, or persistently being drunk and aggressive in public. However, the CBO is not designed to stop reasonable, trivial or benign behaviours that have not caused, or are not likely to cause anti-social behavior.
- 7.3 The case of Stanley, Marshall & Kelly v Metropolitan Police, LB of Brent & SS Home Department (October 7th 2004) held that the publication of material identifying persons subject to anti-social behaviour orders, was not unlawful or a breach of their human rights under Article 8 ECHR.
- 7.4 The decision-making process to publicise CBOs must consider and record the legitimate purpose, necessity and proportionality (**see section 4.1 of this Policy**).
- 7.5 There are no automatic reporting restrictions on CBOs made in court and the presumption is that a CBO can be reported. The information is in the public domain and the Council is entitled to publish details, subject to the consideration of the exceptions referred to in **section 5.7.4 of this Policy**. If reporting restrictions have been imposed, they must be scrupulously adhered to by Officers.

8. The media

- 8.1 The media receive from the courts, registers of pending hearings.
- 8.2 Except where reporting restrictions are imposed, the media are free to report anything said in court.
- 8.3 Officers are encouraged to engage with the media as soon as they have been notified of a court listing, for a Council prosecution/CBO hearing etc.
- 8.4 The Communications & Media Protocol for Investigating Officers, **at Annex B to this Policy**, will be applied.

9. Working with Partners

- 9.1. Where appropriate, the publication of images, criminal behaviour orders and verdicts and sentences may need to be coordinated with other regulatory bodies and enforcement agencies. Intelligence may be shared with the Police, neighbouring boroughs and other regulatory enforcement agencies where it is appropriate for the prevention and detection of crime. This will include undertaking joint prosecutions. The [Kent and Medway Information Sharing Agreement](#) provides the appropriate governance and support, which assists the Council to share personal information lawfully, safely and securely.

10. Equalities and Diversity - Equality Act 2010

- 10.1 The Council's [Equality and Diversity Framework \(2018-2022\)](#) (the EDF) identifies its aims to achieve equality of opportunity in all its activities, including the delivery of services to the community.
- 10.2 The EDF is underpinned by a set of high-level strategic objectives that incorporate the requirements of the Equality Act 2010 and the Public Sector Equality Duty. These objectives include:
- services which are accessible to everyone and do not discriminate on any unjustifiable ground;
 - services seek to meet the needs of DBC's customers and local communities;
 - equality and diversity is championed within DBC and its contractors/service providers, representative of the local community.
- 10.3 The Public Sector Equality Duty is a duty on the Council and that responsibility cannot be delegated and is a continuing duty.

11. Review of this Policy

- 11.1 This Policy will be reviewed annually, or sooner if circumstances require. Reviews will be reported by the Director of Housing and Public Protection to the Dartford Community Safety Partnership, [annually].

12. Decision Making Checklist (Annex A)

- 12.1. The decision making process detailed in Annex A to this Policy, requires the final approval of the relevant Director.

13. Complaints

- 13.1 Complaints about this Policy must be raised in accordance with the Council's [Corporate Complaints Procedure](#).

14. Supporting policies etc.

- [CCTV Code of Practice](#)
- [Data Protection](#)
- [Credits] - Criminal Justice System - Publicising Sentencing Outcomes [2011]

Adopted by Cabinet – 23 September 2021 [Min.No. 46]
Amended under Director delegated authority - 23 May 2022

ANNEX A: DECISION-MAKING CHECKLIST

Name and date of birth of offender: date of conviction/CBO and court: Offence(s) and sentence(s):	<input type="text"/>	<input type="text" value="(dd/mm/yy)"/>
Any reporting restrictions (either court orders or statutory restrictions) in place?	<input type="text" value="(dd/mm/yy)"/>	<input type="text"/>
What would be the aim(s) of publicising personal information about this offender/conviction/CBO? Please tick as appropriate.	<input type="text"/>	
	To improve confidence in the Council's enforcement activities by reassuring the public that this crime has been brought to justice, and that the offender has been sanctioned	<input type="checkbox"/>
	To reduce or prevent crime by deterring other potential offenders	<input type="checkbox"/>
	To meet an identified need of the community to know how crime is being dealt with in their area	<input type="checkbox"/>
	Other (please specify)	<input type="text"/>
Why should this particular offender/conviction/CBO be publicised? ¹	<input type="text"/>	
How much information needs to be published to achieve the aim? ²	<input type="text"/>	
Would publicising this information allow a victim/witness to be identified? Even if not, has the victim/witness been consulted? ³	<input type="text"/>	
What effect would publicising this information have on the offender's family? ⁴	<input type="text"/>	
How/to whom is it proposed that the information be distributed/publicised (e.g. by a leaflet or newsletter, social media, in a community meeting or on the Council's website)? ⁵	<input type="text"/>	
Would publicising this information in this way have an unjustifiably adverse effect on the offender? ⁶	<input type="text"/>	
Taking the above into account, is the decision to publicise the image/conviction/CBO? If so:	<input type="text"/>	
What personal information will be given out? ⁷	<input type="text"/>	
Have you double-checked that this information relates to the offender? ⁸	<input type="text"/>	
Has the offender and anyone else identified in the publicity been informed?	<input type="text"/>	
How long will the publicity last for (if applicable)? ⁹	<input type="text"/>	
What steps will be taken to ensure the information could not subsequently be misused? ¹⁰	<input type="text"/>	
Authorised by the Director of [insert title] and date.	<input type="text"/>	<input type="text" value="(dd/mm/yy)"/>

Checklist notes

1. While each case should be dealt with on an individual basis, it may be sufficient to confirm that publicising information about this particular type of offence/offender complies with current local policy. Otherwise, the reason might be that the offence committed, or the type of crime in general, is of particular local concern, or is particularly serious, or has received a particular sentence. The more serious the offence and the sentence, the easier it will be to show that publishing information is justified. But it does not follow that only information about convictions for serious offences can be published.

2. What is the least interference with the offender's and, more importantly, his or her family's right to respect for private and family life that is possible while still achieving the aim(s) identified? The need to identify an offender, as opposed to simply saying that someone has been sanctioned, should be specifically considered. If it is decided that personal information should be publicised, and while all decisions need to be made on an individual basis, there can be a presumption that 'basic' personal information e.g. name, age, offence and summary address (but not full address) – can be released unless there are clear reasons to the contrary (these reasons should be surfaced by answering the questions on this checklist). There needs to be a specific justification for publishing *additional* personal information, in particular, increasing confidence in the Council's enviro-crime and anti-social behavior enforcement activities, reassure the public, deter potential criminals or help to prevent crime, over and above the publication of 'basic' personal information. For instance, publication of a photograph might be justified if:

- the offender is known by sight in the area, but not generally by name;
- residents would need to see a photograph to be reassured that this particular offender has been convicted or will be prosecuted;
- the offences were so prevalent and/or of such concern to the community that it is felt only publication of a photograph could reassure the public that they had been or will be brought to justice;
- seeing the offender's image is likely to encourage victims of and witnesses to other offences to come forward.

3. Information that could be used to identify victims or witnesses should not be released, especially if this would cause the victim undue embarrassment or distress, place them at risk of reprisals from friends or associates of the offender, or expose them to unwanted media or public attention. Victims should anyway be consulted about proposed publicity regardless and made aware of possible press coverage (except possibly in cases where there is no 'personal' victim, and/or the crime is already visible to the public – e.g. criminal damage).

4. Similarly, information that could be used to identify offenders' families (over and above a surname that they share with the offender) should not be released, especially if this would place them at risk of ostracism, harm (e.g. reprisals) or infringement of their own right to respect for their private and family life.

5. Where only a small number of individuals (e.g. the community affected by the crime) need to know the information, then giving it out in a meeting or leaflet will be a more proportionate method of publication than putting it on a website. Communicating case outcomes online will achieve wider publicity and impact than by other means, but may also have long-term adverse consequences for ex offenders if information about their offence is accessed after it has been taken down from a site, as it can be. For this reason, online publicity needs to be justified, and will not usually be appropriate for minor offences/sentences or for first time offenders (see note 2 above).

6. Is the offender known to have a specific vulnerability (e.g. mental health issues or physical ill health), which means that publicising their conviction risks unwarranted adverse consequences (i.e. not simply that the offender objects to the publicity)? That apart, what is the potential impact of the publication of this information in this way on the future rehabilitation of the offender?

7. Although as mentioned above there should be a presumption that 'basic' personal information can be released unless there are clear reasons to the contrary, it does not follow that *all* of this information need be released in each case to achieve the intended aim.

8. The utmost care must be taken not to mistakenly identify the wrong individual as a convicted criminal; the consequences of doing so could be severe for the individual concerned, and lay agencies open to the risk of libel action.

9. Such publicity should be time-limited. The objective is to draw attention to the conviction and sentence when they are handed down, not to provide any kind of ongoing record. The longer information is retained on the Council's website and/or social media, the greater the opportunity for that information to be misused or

subjected to secondary processing by third parties, and the greater the risk that it will become out of date and/or inaccurate. As a general rule, information should be removed from the website and/or social media after 28 days.

10. Information published online, particularly photographs, should be in a format that cannot be easily copied/saved by anyone viewing the site. Where a subsequent appeal against a conviction is successful:

- if details of the original conviction/CBO have been placed on the website; and are still there, they should be removed; and/or
- if the original conviction/CBO was publicised in other ways, the individual concerned should be offered the opportunity to have the successful appeal publicised in the same way.

COMMUNICATIONS & MEDIA PROTOCOL FOR INVESTIGATING OFFICERS

1 Introduction

It has never been more important for the Council to communicate effectively with residents, media, partners and Members. Whether it is to encourage greater self-service or to promote understanding of local priorities, effective communications has the power to engage communities, challenge misconception and help us achieve our objectives.

The purpose of this Communications & Media Protocol is to assist Investigation Officers across Dartford Borough Council and ensure that any communications pertaining to their investigations are well coordinated, effectively managed and responsive to the diverse information needs of the Council and the public.

This Protocol will also ensure all information shared with the media is for a legitimate purpose, and demonstrates openness and integrity.

2 Objectives

- (a) Identify and develop communications that provide the public with timely, accurate, clear, objective and complete information about council investigations, enforcement services and initiatives;
- (b) Provide guidance on the formulation of communications relating to regulatory and enforcement activities and allied investigations; and
- (c) Provide supplementary communication guidance to support investigations, to ensure all publicity is compliant with the law.

3 A co-ordinated communications response to council investigations

Dartford Borough Council must be able to share communications rapidly and authoritatively - whether this is to a media enquiry relating to a crime, or where the Council is raising the profile of its own investigation. However, without clear protocols, the reputation of the Council is vulnerable. There are laws covering communications. The main one for local government media communications is the Local Government Act 1988 and Code of Recommended Practice on Local Authority Publicity (amended in March 2011)¹. A number of other codes of practice and legislation also apply to Council communications, including:

- The law relating to defamation
- Copyright legislation
- Freedom of Information Code of Practice²
- Equality Act 2010

¹ <https://www.gov.uk/government/publications/recommended-code-of-practice-for-local-authority-publicity>

² Cabinet Office 2018

- Local government legislation conveying rights of access to meetings and information
- Data Protection Act 2018 and the UK GDPR

This Protocol must therefore be applied in conjunction with the Policy for Publicising Environmental Crime, Criminal Behaviour Orders, Verdicts and Sentences and its Decision Making Checklist³.

The Protocol and allied policies apply to everyone who works for Dartford Borough Council in any capacity, or who represents the organisation in some way, including:

- All Members
- All employees within the organisation, including those employed on an agency, freelance or consultant basis
- Volunteers working with Council service teams
- Partners, providers and suppliers (including contracted or commissioned services) that may want to refer to Dartford Borough Council in publicity material.

4 Scope of the protocol

The Communications Team aims to provide guidance and leadership on communications and marketing activity. It will take responsibility for promoting and monitoring this Protocol, including highlighting instances when the Protocol has not been observed and provide evidence to monitor the impact, which may include supporting any resulting investigation or disciplinary procedure.

The Communications Team is responsible for media relations, for and on behalf of the Council. This includes:

- issuing proactive press releases
- responding to day-to-day inquiries from the media by issuing statements and/or arranging interviews with members or officers as appropriate
- dealing with media enquiries received by managers, staff and Members
- offering advice to all Members and managers on the most appropriate approach to media issues relating to the publication of regulatory and enforcement activities comprising environmental crime, criminal behaviour orders, verdicts and sentences. They will also advise on the appropriateness of any proposed proactive and reactive publicity, if necessary, seeking further advice from the Council's Head of Legal Services and Monitoring Officer.

The Communications Team may issue proactive press releases in a range of circumstances and in conjunction with others e.g. Kent Police relating to for example:

³ See documents: 'Policy for Publicising Environmental Crime, Criminal Behaviour Orders, Verdicts and Sentences' and its 'Annex A: Decision Making Checklist'

- informing about joint investigations;
- publicising verdicts and sentences.

The content of proactive releases is drawn up in consultation with relevant Officers to ensure factual accuracy. All proactive releases issued by the Communications Team will be copied on email to the Leader, relevant Portfolio holder and Directors.

The Communications Team will, in consultation with relevant Officers, issue statements in response to media inquiries. If the inquiry relates to a matter of agreed Council policy rather than simple factual checks, the Communications Team will liaise with the relevant Portfolio holder.

The Communications Team is responsible for proactive publication of regulatory and enforcement activities comprising environmental crime, criminal behaviour orders, verdicts and sentences, including proactive public relations and campaigns. Any Officer wishing to develop proactive public relations or campaign publicity proposals must first discuss ideas with the Communications Team. Work requests for these initiatives must be submitted via the [Communications Team Work Request](#) form.

5. The role of Managers and other Council staff

Any manager or employee who receives a media inquiry regarding environmental crime, criminal behaviour orders, verdicts and sentences should redirect it to the Communications Team. It is not appropriate for Officers to initiate contact with the media or respond to media inquiries independently without first consulting with the Communications Team.

The Communications Team may offer an Officer for media interview where the subject matter is purely factual or a journalist is seeking a background briefing. In other circumstances where comments are required on matters of Council policy or the outcomes of Member decision making (see above) the most appropriate spokesperson is likely to be the Leader or a Director – that decision will be made by the Communications Team in consultation with the Leader and relevant Director.

Staff should not under any circumstances go to the press direct for any reason – publicity around investigations must be handled through normal line management arrangements in-line with this Protocol.

6. Targets for responding to media inquiries

The Communications Team has a target of responding to all media inquiries within a maximum 24 hours. Some inquiries may require an even quicker response to meet press deadlines. In the case of TV and radio, responses are required almost instantly and sometimes hourly.

The Communications Team will make clear the priority of the inquiry when they contact Members and Officers. Responding on target is only possible with the co-operation of all Officers asked for information. It can be damaging to the Council's reputation to fail to respond to inquiries.

7. Communications and publicity with partner organisations

Increasingly, the Council is working in partnership with other agencies to tackle environmental crime and anti-social behaviour. This includes issuing joint communications and publicity. The terms of this Protocol and local government publicity law **must** be followed when the Council issues such joint publicity.

This is the case even if publicity is issued jointly with organisations not themselves covered by local government publicity law. Any Officers discussing potential joint communications' activity with other agencies must ensure that partners understand that compliance with this Protocol is a condition of any joint arrangements.

The Communications Team will ensure that all appropriate checks are carried out on any such publicity, and reserves the right to withdraw the Council from joint publicity arrangements, if this Protocol is not being followed.

8. The Communications Team

Dartford Borough Council's Communications Team comprises:

- (a) Economic Development & Communication Manager
- (b) Senior Communications Officer
- (c) Communications Officer
- (d) Spokespersons e.g. Leader or relevant Director

Should you have any questions regarding this Protocol please email comms@dartford.gov.uk