
CCTV CONTROL ROOM
FUTURE PLANNING

Responsible Cabinet Member(s) -Councillor Chris McEwan,
Community Protection Portfolio

Responsible Director(s) - Paul Wildsmith, Director of Corporate Services

Purpose of Report

1. To seek Cabinet approval to the proposed approach to the continued delivery of this highly successful community service.

Information and Analysis

2. From its inception in 1994 to the present date, Darlington Borough Council's CCTV operation has grown from an initial 35 camera system to its present 104 cameras. Most of the recent growth has been attributable to successful funding bids to successive Government CCTV funding initiatives as offered by the Home Office. Five such bids have netted the Council a total of £800,000 in funding. That funding stream is now finished and in the short term is unlikely to return. Further expansion of the system is now being funded from Capital Bids approved by Council and based upon priorities determined by public surveys.
3. The demand for CCTV coverage is constant and although it is only part of the solution to many of the issues raised, it is clear that such demand will continue. To ensure sustainability of this service an approach to the future provision of the service is set out below.

The Future

4. The service has been developed using 'one off' capital funds which is not conducive to a sustainable service as funding of replacement equipment etc. is not allowed for within existing budgets. As the number of cameras increase it will become increasingly difficult to continue to provide the existing level of service within existing staffing levels.
5. The service has grown significantly from its inception in terms of the number of cameras and the other services it provides as listed below :-
 - (a) Private Contracts for CCTV e.g. Bank Top Station
 - (b) Camera monitored alarm systems for a private company
 - (c) Control Room for the Council's Warden Service

- (d) A CCTV monitoring contract with Wear Valley District Council
6. The additional work brings additional income to assist in supporting the ongoing costs of the “Community Service” and helps give capacity to enhance the service. This was the criteria adopted when agreeing the monitoring contract with Wear Valley.
 7. The Control Room is currently seeking accreditation to operate as an alarm receiving centre and it is proposed that once the accreditation is achieved the Council positively promotes this service to enable it to further enhance the services it provides to the public of Darlington.
 8. With the alarm accreditation added to the existing ISO9001:2000 accreditation the Council has a service capable of expansion. To improve sustainability of the service it is proposed that the service diversify its current operations to develop fee earning capacity subject to any legal constraints, whilst at all times putting the interests of Darlington residents and the existing CCTV provision first.

Outcome of Consultation

9. There has been no consultation on the contents of this report.

Legal Implications

10. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. Independent legal advice has been taken in relation to the powers available to the Council to provide CCTV and alarm monitoring. The powers available to the Local Authority in connection with CCTV and Alarm Monitoring are wide, particularly since the 2000 Local Government Act (**see Appendix 1** for full advise on those powers). However, in each particular situation the relevant power needs to be assessed, together with the relevant power to charge. It is perfectly proper for the Council to argue that in the following circumstances there would be a well-being benefit to the community and therefore the 2000 Act applies :-
 - (a) The original system for the Town Centre CCTV.
 - (b) The Warden Link scheme.
 - (c) Crimenet Radio Link
 - (d) Pubwatch
 - (e) GNER Contract at the Station
 - (f) Private Sector premises in the Borough
11. Obviously, the town centre coverage helps prevent crime, makes the town centre safer and generally assists the community; the warden link elements benefit tenants and other inhabitants; Crimenet and Pub Watch prevent crime in the Borough; monitoring of the station makes that a safer place and aids the economic benefits of a mainline station in the Borough; finally, covering private sector premises should also have a well-being benefit, depending on the particular issues of the premises concerned.
12. So far as services for other Local Authorities are concerned, there is power in Section 1 of the Local Authorities (Goods and Services) Act 1970. Any Contract would seem to be the

provision by the Council of an administrative, professional or technical service to authorise public bodies and the Council has wide powers in relation to such an agreement and to make a profit on such schemes. In respect of charging for the other situations, this could be either Section 111 of the Local Government Act 1972 or the discretionary charging powers within Section 93 of the Local Government Act 2003.

13. As regards private sector premises outside the Borough, there are legal doubts as to whether appropriate powers exist to enable the Council to carry out this function. It would appear that where the nature of delivery of a service involves a greater geographical remit than the Borough area, then the full trading powers available in Section 95 of the Local Government Act 2003 should be adopted. That is not recommended at present.

Section 17 of the Crime and Disorder Act 1998

14. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its 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. It is not considered that the contents of this report have any such effect.

Council Policy Framework

15. The issues contained within this report do not represent change to Council policy or the Council's policy framework

Decision Deadline

16. For the purpose of the 'call-in' procedure this does not represent an urgent matter

Recommendation

17. It is recommended that Cabinet :-
 - (a) Give approval to the CCTV service bidding for contracts with other public and private organisations.
 - (b) That bids only be submitted where it is of benefit to the overall service provision for the residents of Darlington.

Reasons

18. The recommendation is supported by the following reasons :-
 - (a) supporting the recommendation will help facilitate careful selection of a variety of fee earning opportunities that both compliment existing services and provide a source of additional income.
 - (b) the additional income will help address the need for additional staff; and

- (c) the additional income will help deal with issues of equipment obsolescence; increased demand for CCTV in public spaces and the overall long term sustainability of the service.

Paul Wildsmith
Director of Corporate Services

Background Papers

No Background papers were used in the preparation of this report.

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Availability of Powers

A variety of Local Authority powers and duties may be relevant to the CCTV operation, including alarm monitoring. This section commences with a brief review of each of the powers, followed by their application to the issue of CCTV.

A The Local Authorities (Goods and Services) Act 1970

This is a key Act, empowering Local Authorities to engage in trading activities with other public bodies (the definition of which includes other Local Authorities). By virtue of an Agreement, a Local Authority can enter into arrangements with any public body for the supply of any goods or materials, the provision of any administrative, professional or technical services and the use by the body of any vehicle, plant or operators belonging to the Council. That includes persons employed in connection with any such equipment. Further, the Council may purchase and store any goods or materials which in their opinion, they may require for the purposes of supplying any goods or materials to a public body.

The purpose of the Act is to permit Local Authorities to enter agreements with public bodies and other Local Authorities, to take advantage of economies of scale and to reduce costs by the sharing of resources. The Act was always intended to be positive in nature and should be construed accordingly. Case law suggests that the provisions of the Act can be used to authorise trading between Local Authorities and public bodies, to recruit staff for that purpose and to purchase goods and materials to store without having any firm contract for their onward sale.

B The Well-being Powers in the Local Government Act 2000

Under this Act, every Local Authority has power to do anything which they consider is likely to achieve the promotion and improvement of the economic, social or environmental well-being of their area.

It is clear that the powers may be exercised for the benefit of the whole or part of the Council's area, for one or more residents or those present in the Council's area and in order to emphasise the breadth of the provisions, sub-section 4 includes a list of aspects that might be covered, such as incurring expenditure, exercising the functions of others and providing staff, goods, services or accommodation to any person. Anything which can be brought within the language of the main provision will be authorised.

The only other limitations on the use of the power are that it does not enable a Local Authority to do anything which they are unable to do by virtue of any statutory prohibition, restriction or limitation on their powers nor does it enable a local authority to raise money (whether by precept, borrowing or otherwise).

A Government Circular issued in March 2001 emphasises that the powers are intended to be wide. Further that Circular indicates that the creation of the new power of well-being confers a new function on Local Government, namely that of promoting or improving community well being. This is particularly relevant to the application of Section 111, as mentioned below.

The use of the well-being power is specifically linked to the Local Authority's Community Strategy, which must be prepared under Section 4 of the 2000 Act. The Authority must have regard to their strategy in determining whether or how to exercise well-being powers. The purpose of the Community Strategy is set out in Government Guidance and is to forward a Community Vision and create buy-in to that vision by other bodies that spend public money within the Council's area. Where a Local Authority wishes to use its well being powers, it has to have regard to its published Community Strategy. This is an important precondition of use of the powers.

There are also a number of practical issues which arise in using well-being powers. The Local Authority must demonstrate that in its view, the proposed course of action is likely to achieve the promotion or improvement of the economic, social or environmental well-being of the area and that will have to be evidenced appropriately.

The Council will need to establish a case which will evidence which of the three elements of well-being, or a combination of the three, applies. Ideally, there should be a series of cases underpinning the proposed activity, including a business case, market analysis and so on which will include the rates which will be charged for the job, anticipated costs of undertaking the work, the profit that the Council intends to make, together with a risk analysis.

C Section 38 Local Government (Miscellaneous Provisions) Act 1976

This is a useful miscellaneous power permitting Local Authorities to sell spare computer capacity that they may have. It is unusual in that not only is it specifically stated that Local Authorities shall have the power to sell such capacity, but it is laid down that it must be sold on a commercial basis. Spare computer capacity is not defined and the power is therefore believed to cover the use of IT capacity and equipment within the capability of a system for other parties.

D Trading Powers under the Local Government Act 2003

There is a fundamental distinction between charging for a discretionary service (which is available to all Local Authorities from 18th November, 2003) and commercial trading (which will only be available to the higher echelon CPA Authorities and by way of a separate trading company). This requires a new Order, which is awaited.

The purpose of charging for discretionary services is to allow Local Authorities to perform those services and to be able to recover the costs of so doing. In other words, Local Authorities would not be prevented from providing discretionary services because they cannot fund them themselves. This is relevant to the well being power. By contrast, commercial trading is risk based trading in the private sector. It is only available to some Local Authorities and is subject to tighter restrictions, principally the establishment of a company.

E Powers to Charge for Discretionary Services

Sections 93 and 94 deal with this issue. In short, s93 gives the power to charge for discretionary services.

A discretionary service is defined in s93(1)(a) as a service which the authority is *authorised* but not *required* to provide. The Government has added the extra element of agreement by the party who is to be charged for the service in question (s93 (1)(b)).

Sub-section (2) makes clear that this is a new power which does not affect pre-existing statutes giving *express power* to levy a charge or where there is a statute expressly *prohibiting* the levying of a charge. An example of the former would be s19 of the Local Government (Miscellaneous Provisions) Act 1976 to provide leisure facilities or s1 of the Local Authorities (Goods and Services) Act 1970; and of the latter the prohibition in the Education Act 1944 to charge for basic schooling. In these circumstances, s.93 will not apply.

The sensitive nature of charging for discretionary services is underlined by subs (3) which confirms that the Government only wants local authorities to recover their costs for such activities. The Act includes at s93(3) a general duty expressed in these terms: “taking one financial year with another, the income from charges under that subsection does not exceed the costs of provision.”

What is not clear, of course, is whether the “costs of provision” can include an element of contingency which will lead to a surplus. Many local authorities undertaking discretionary activities and wishing to charge for them would wish to include its full administrative costs and / or some form of contingency element and this would be perfectly acceptable in commercial terms.

The ODPM has issued guidance on this point to which local authorities “must have regard.” The ODPM issued *General Power for Best Value Authorities to Charge for Discretionary Services - Guidance on the Power in the Local Government Act 2003* in November 2003.

So far as the calculation of charges is concerned, the provisions have been drawn up quite widely. There is a measure of discretion allowed to local authorities, including the fact that they can choose their own methodology for assessing costs, that costs are likely to be comprehensive and that there is also flexibility in the period for calculation.

Section 94 is an important provision, giving the Secretary of State power to disapply s93 in relation to particular types of Best Value Authority, particular “descriptions” of Best Value Authority or particular services offered by Best Value Authorities. In short, this means that the Secretary of State has the authority to take away the power to charge for discretionary services.

A charge is a payment for work done under a Services Contract. It comprises of an element relating to assets utilised in the performance of those services; an element relating to equipment; an element relating to people; and probably also include some form of administrative overhead or profit charge.

In the normal course of a contracting relationship, which is the context in which such a deal takes place, the expectation would be that one party providing a service to another party would levy a charge for that service. This is not unusual or unreasonable. The use of the word ‘profit’ can be emotive but it merely means a surplus over costs which may be ploughed back into a business, retained as a contingency or distributed to shareholders. In charging for a discretionary service, there is no suggestion that the Local Authority should risk a loss; and consequently an element of surplus or profit is to be expected. The Local Authority, however, does need to

identify a power to levy the charge in order for it to be lawful.

F Other Legal Powers to Charge

The first power to be examined is Section 2 of the Local Government Act 2000 itself. A normal construction of Section 2 (which is the basic well-being power) would suggest that provided the charge can be said to promote or improve the economic, social or environmental well-being of the area or of its residents, then it would permit charging. Another argument would be that it is implied that the Authority should at least recover its direct and indirect costs and therefore be authorised. It is emphasised in Circular Guidance from the Government that the well-being powers are intended to be general powers, widely construed and very helpful to Local Authorities in seeking to act innovatively.

It would seem that, in addition, a plausible argument could be forwarded that the wider community will be benefited by the levying of the charge, as well as the undertaking of the work.

As an alternative, Section 111 of the Local Government Act 1972 provides an important incidental power. It permits a Local Authority to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions. The well-being power is now a function of a Local Authority. This being so, it is necessary to construe whether the levying of the charge by the Council would facilitate or be conducive or be incidental to the performance of that well-being function. The answer to that must surely be yes as the money is the recovery of the expenses laid out by the Council in undertaking the work and the recovery of these costs assists with promoting or improving the well-being of the area by performing other maintenance work. Clearly and conversely, not to recover the charge would be detrimental to well-being.

It is not considered that charges constitute a breach of the prohibitions contained in Section 3 of the 2000 Act and Section 111 of the 1972 Act respectively. The former indicates that, as we have seen, a Local Authority cannot raise money (whether by precept borrowing or otherwise). The 1972 Act contains a provision which indicates the raising of money, whether by rates precept or borrowing, is prohibited. Case law indicates that levying a charge does not amount to raising money.

In any event, where the activity itself is authorised by the well-being power, the Council can levy a charge for this discretionary service under the new charging power within Section 93. In a situation where Section 1 of the Local Authorities (Goods and Services) Act 1970 applies, e.g. providing a service to another public body, the power to charge is specifically referred to.

Applicability of Powers

The powers available to the Local Authority in connection with CCTV and Alarm Monitoring are therefore wide, particularly since the 2000 Act. However, in each particular situation the relevant power needs to be assessed, together with the relevant power to charge. It is perfectly proper for the Council to argue that in the following circumstances there would be a well-being benefit to the community and therefore the 2000 Act applies :-

- The original system for the Town Centre CCTV.
- The Warden Link scheme.

- Crimenet Radio Link
- Pubwatch
- GNER Contract at the Station
- Private Sector premises in the Borough

Obviously the town centre coverage helps prevent crime, makes the town centre safer and generally assist the community; the warden link elements benefit tenants and other inhabitants; Crimenet and Pub Watch prevent crime in the Borough; monitoring of the station makes that a safer place and aids the economic benefits of a mainline station in the Borough; finally, covering private sector premises should also have a well-being benefit, depending on the particular issues of the premises concerned.

So far as services for other Local Authorities are concerned, there is power in Section 1 of the 1970 Act, as mentioned. The Contract would seem to be the provision by the Council of an administrative, professional or technical service and the Council has wide powers in relation to such an agreement and to make a profit on such schemes. In respect of charging for the other situations, this could be either Section 111 of the Local Government Act 1972 or the discretionary charging powers within Section 93 of the Local Government Act 2003.

As regards private sector premises outside the Borough there are significant doubts as to whether appropriate powers exist to enable the Council to carry out this function. It would appear that where the nature of delivery of a service involves a greater geographical remit than the Borough area, then the full trading powers available in Section 95 of the Local Government Act 2003 should be adopted.

In all cases, the Council needs to approve the proposed services and the powers of provision and charging on which the Council seeks to rely.

D/081203 Note CCTV