

# Lawful Business Monitoring

Guidance

## Notice:

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Owning Department: Anti-Corruption Unit

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## Purpose / Scope

This guidance document supports the following Police Service of Scotland (hereafter referred to as Police Scotland) Policy:

* + - Anti-Corruption Policy

The purpose of this document is to provide guidance to all Police Officers and Scottish Police Authority/Police Staff on the use of Lawful Business Monitoring (LBM) software in support of Anti-Corruption Unit (ACU) investigations.

## 2. Introduction

LBM is an auditing tool used to assist the organisation in the protection of its staff, information assets and data. It is intended to assist in the investigation of criminal and corrupt activity. Corrupt activity is defined by, but not limited to, the categories set by the National Policing Counter Corruption Advisory Group (NPCCAG).

NPCCAG Categories

1. Infiltration
2. Disclosure of Information
3. Perverting the Course of Justice
4. Sexual Misconduct
5. Controlled drug use and supply
6. Theft and Fraud
7. Misuse of Force Systems
8. Exploitation of the privilege of office
9. Inappropriate Association
10. Vulnerability
11. Other Criminal Behaviour
12. Other

The system will monitor and record all computer based actions (including keystrokes and screenshots) of all Police Scotland employees who use any element of the Force IT infrastructure and associated networks.

## 3. Intended Use

LBM is a tool that will be used to mitigate the threat of internal corruption and to safeguard the reputation of Police Scotland. While LBM monitors and records all computer based actions carried out by the user, it will only be utilised on a controlled and intelligence led basis, to address criminal or corrupt activity. Benefits associated with the LBM solution include:

1. Ability to use the auditing function of LBM, on an intelligence led basis, to support investigations and prevent criminal or corrupt activity.
2. Protection for the organisation by providing the means to effectively seek out, on an intelligence led basis, those who abuse their position within the organisation for personal gain or benefit of others.
3. Provision of a forensic capability to the system auditing process, to ensure its evidential credibility.
4. To instil within the communities of Scotland the confidence that Police Scotland has the ability to protect the information and intelligence assets of the organisation and effectively manage the misuse of its internal ICT systems by its employees.

## 4. Roles and Responsibilities

LBM system asset owner will be Assistant Chief Constable Professionalism & Assurance, with the Anti-Corruption Unit (ACU) Detective Superintendent responsible for the application of the software and the information it generates.

The LBM system will only be made available to a small number of vetted and trained officers within the Police Scotland ACU with oversight and governance in place by senior management in respect of its use.

## 5. Business Use and Expectation of Privacy

The Investigatory Powers Act 2016 (Section 46) and The Investigatory Powers (Interception by Businesses etc. for Monitoring and Record-keeping Purposes) Regulations 2018 permits businesses, including public authorities, to monitor, intercept and record electronic communications transmitted through equipment provided to conduct business.

Lawful Business Monitoring allows Police Scotland to monitor, without consent, and to keep records of communications:

* In order to establish the existence of facts;
* In the interest of national security;
* For the purposes of preventing or detecting criminal and corrupt activity;
* For the purposes of investigating or detecting the unauthorised use of that or any other Police Scotland systems;
* In order to secure, or as an inherent part of, the effective operation of the system.

The use of LBM by the ACU to monitor or observe a person’s system usage will require appropriate authorisation, which will only be granted where its use is considered to be reasonable, necessary and proportionate to prevent and detect criminal or corrupt activity.

Authorisation for the live monitoring of a person’s system usage shall be granted by the ACU Detective Superintendent or in their absence a Superintendent from the Professional Standards Department.

Handheld mobile devices and all ICT systems used are provided on the condition that they are used for a policing purpose. In line with existing policies, when using Police Scotland systems for reasonable personal use, as communications will be recorded and may be monitored there can be no expectation of privacy.

Further information regarding reasonable personal use can be found within the Information Security SOP and Information Security Handbook.

## 6. Appropriate Use

It is accepted that as with any investigative technique there may be collateral intrusion. This includes the unintentional discovery of sensitive data, personal information and other material not relevant to the investigation. In addition all data received will be extensively researched and analysed to ensure that it is relevant to this investigation. Data found to be irrelevant will be disregarded.

In all cases LBM will only be utilised where necessary, justified and proportionate to prevent and detect crime and corrupt activity.

The decision and rational for the use of LBM is to be clearly documented within an investigation detailing the suspected criminality or corrupt activity and the benefits of using the software.

Use of LBM will only be authorised for the purpose of preventing or detecting crime and corrupt activity. If during the course of an investigation material is obtained which suggests the activity amounts to performance, conduct or management issues,the associated information will be forwarded to the Professional Standards Department (PSD) Gateway Unit for assessment.

## 7. External Requests

Any external requests for quantitative/system data must be submitted to the Detective Inspector ACU Intelligence, and each will be considered on its own merits. No personal data will be disseminated outside of the ACU without the explicit instructions of this officer. Dissemination will take place in accordance with intelligence handling requirements, data protection considerations and proportionality in terms of the purpose for which the data is required.

## 8. Further Information

Should individuals require any further information regarding Lawful Business Monitoring please contact the Anti-Corruption Unit, Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 30, Prejudice to effective conduct of public affairs.

## Compliance record

EqHIRA completion/review date: 20/10/2022

Information Management Compliant: Yes

Health and Safety Compliant: Yes

## Version control table

| Version | History of amendments | Approval date |
| --- | --- | --- |
| 1.00 | Initial Approved Version | 21/01/2021 |
| 2.00 | Section 2, page 2, Updated made to National Policing Counter Corruption Advisory Group (NPCCAG) categories 8 and 11. | 20/10/2022 |

## Feedback

All Police Scotland service delivery Policies, Standard Operating Procedures (SOPs) and National Guidance are subject to regular reviews. It is important that user feedback is taken into account when documents are reviewed.

If any officer / staff member wishes to provide comment, or make suggestions for improvements to this or any associated document, Force Form 066-014 should be used.