

REPORT

Oakville Public Library Board

Meeting Date: September 22, 2022

FROM: Oakville Public Library

DATE: September 21, 2022

SUBJECT: Electronic Monitoring Policy

RECOMMENDATION:

That the Electronic Monitoring Policy (Appendix A) be approved.

KEY FACTS:

The following are key points for consideration with respect to this report:

- The Ontario Ministry of Labour, Training and Skills Development recently made amendments to the *Employment Standards Act, 2000* (ESA). These amendments, included in *Bill 88: Working for Workers Act, 2022*, require all employers with 25 or more employees to have a written policy concerning the electronic monitoring of employees in place by October 11, 2022.
- This legislation requires employers to provide employees with information pertaining to how they are being electronically monitored in the workplace.
- The Electronic Monitoring Policy (Appendix A) is based on the Town's Electronic Monitoring Procedure.
- The Town's Electronic Monitoring Procedure was received for information to Town Council on September 20, 2022.
- OPL's IT infrastructure is currently owned and managed by the Town of Oakville. Thus, OPL and its employees must comply with the ITS policies and procedures.
- Since this is a new requirement under the *Employment Standards Act, 2000* (ESA), OPL is bringing the policy to the Board for approval.

BACKGROUND:

The Ontario Ministry of Labour, Training and Skills Development recently made amendments to the *Employment Standards Act, 2000* (ESA) via *Bill 88: Working for Workers Act, 2022*. *Bill 88* received Royal Assent on April 11, 2022. One requirement

of the legislation is that employers must have a written policy on electronic monitoring in place by October 11, 2022. The policy must confirm whether the organization electronically monitors employees. If it does, the content of the policy must include:

- provide a description of how, and under what circumstances, the organization electronically monitors employees.
- advise on what the organization does with the information it gathers.
- include the date the policy was prepared, and the date on which any changes were made to the policy.

Similar to the recent “right to disconnect” policy, this legislation does not actually afford employees a right to protections from electronic monitoring. Rather, it provides employees with a right to know how they are being monitored. As such, employers are free to establish their own parameters, in line with the ESA requirements as well as any collective agreement requirements that may exist.

Based on the above information, the Town’s Information Technology Services (ITS) has conducted an inventory of internal methods for electronic monitoring which OPL has provided as part of the Electronic Monitoring Policy in line with legislative requirements. The Town’s Electronic Monitoring Procedure was received for information at the September 20, 2022 Council meeting.

OPL IT infrastructure is currently owned and managed by the Town of Oakville. OPL and its employees comply with ITS policies and procedures unless otherwise governed by an OPL policy. In this instance, the legislation requires OPL to have its own policy in place and so OPL has based its Electronic Monitoring Policy on the Town’s procedure, therefore meeting the legislative requirement. OPL will review all ITS policies and procedures following the completion of the new service level agreement (SLA) that is currently being developed.

The policy will be sent out to all staff in early October.

COMMENT/OPTIONS:

The *Employment Standards Act* does not define electronic monitoring. However, the Ministry of Labour states that electronic monitoring includes “all forms of employee and assignment employee monitoring that is done electronically”.

This policy outlines what resources are monitored and how the information collected may be used by the Town and OPL. The Town including OPL, does not actively monitor employees. However, users should have no expectation of privacy in relation to the use of information technology and systems resources, or any other Town electronic and/or digital devices and equipment and should be aware that any use may be subject to the *Municipal Freedom of Information and Protection of Privacy Act*

(MFIPPA). The Town, in conjunction with OPL, reserves the right to monitor and/or review user activity and may so do for the purposes of employee safety, the protection and security of the Town's and OPL's resources, to monitor compliance with applicable procedures, policies, and expectations, disciplinary purposes as required, resource utilization data, complaint response, records, usage and location of resources.

APPENDICES:

Appendix A - Electronic Monitoring Policy (2022)

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Submitted by:

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