



Attachment 1 to Item 4.3.2

Draft Surveillance Devices Policy

Date of meeting: 21 November 2023
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Time: 6:30 p.m.



Surveillance Devices - Compliance and Law Enforcement Activities (Body Cameras)

Division:		Policy Number:	
Branch:	Environment & Regulatory Services	Adopted Date:	
Responsible Officer:	Regulatory Services Manager	Next Review Date:	
Director:	City Planning	Version:	



Table of Contents

1. Purpose	2
2. Definitions	2
2.1 Scope of Policy	2
3. Background/Legislative Requirements	2
4. Policy Statement	3
4.1 Key principles	3
4.2 Establishing the use of surveillance	3
4.3 Public notification of the use of surveillance devices	4
4.4 Public notification of the use of Body Worn Cameras	4
4.5 Photographic evidence	4
4.6 Law enforcement purposes	4
4.7 Footage of alleged criminal behaviour	4
5. Implementation	5
6. Related Documents	5

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1. Purpose

To assist with the lawful investigation and evidence gathering in respect of any person or company responsible for any illegal activities including waste dumping, malicious damage on public land and public buildings, pollution, waste storage and disposal, unauthorised development, illegal camping in streets and reserves and illegal parking.

Body-worn cameras can provide an accurate documentation of staff-public contacts, enhance Council's ability to review incidents, identify training requirements and may be useful in documenting offences. They can also act as a deterrent to aggressive and abusive behaviour directed towards staff, therefore improving workplace health and safety outcomes.

This policy has been developed to ensure compliance with all relevant legislation and guidelines pertaining to the use of surveillance devices. The policy will also ensure correct management of records to protect the privacy and confidential nature of the personal information collected.

2. Definitions

'**Local government authority**' has the same meaning as in Section 3 of the Privacy and Personal Information Protection (PIPP) Act; i.e. a council, county council or a joint organisation.

'**Public sector agency**' has the same meaning as in Section 3 of the Privacy and Personal Information Protection (PPIP) Act.

'**Surveillance footage**' may include images or audio recordings from:

- Surveillance cameras
- Digital cameras
- Electronic PIN devices
- Smart Phones and tablets, and
- Body-worn cameras.

2.1 Scope of Policy

This policy applies to:

- Council employees (primarily Authorised Officers located in the Regulatory Services Branch)
- Consultants/Lawyers/Contractors/Volunteers
- Community members

3. Background/Legislative Requirements

The use of surveillance devices for compliance and law enforcement activities, needs to be understood within the legislative frameworks for privacy and local government regulation. The use of these devices also has a bearing on legitimate workplace surveillance practices. The following legal instruments have informed the development of this policy:

- Privacy and Personal Information Protection (PPIP) Act 1998
- Government Information (Public Access) (GIPA) Act 2009
- Local Government (LG) Act 1993
- Protection of the Environment Operations (POEO) Act 1997
- Workplace Surveillance (WS) Act 2005
- Surveillance Devices (SD) Act 2007
- Road Rules (RR) 2008
- Environmental Planning and Assessment (EP&A) Act 1979
- Evidence Act 1990 (EA)



- Water Management Act 2000
- State Archives and Records Video/visual surveillance records (GDA8)
- Hawkesbury City Council Compliance and Enforcement Policy
- Hawkesbury City Council Privacy Management Plan

In particular, The PPIP Act defines personal information as information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.

There are nineteen Information Protection Principles (IPP) defined in the PPIP Act that apply to the collection, storage, use and disclosure of personal information. The Privacy Management Plan describes how Hawkesbury City Council manages personal information with regard to its obligations under PPIP Act.

The PPIP Act provides public sector agencies with a number of exemptions to the IPPs for conducting law enforcement activities and sharing data between public sector agencies.

4. Policy Statement

4.1 Key principles

The policy is based on the following guiding principles:

1. The surveillance device program will be operated fairly, within applicable legislative requirements and only for the purposes for which it is established or which are subsequently agreed in accordance with this policy.
2. The surveillance devices will only be used in accordance with this policy.
3. The surveillance devices will be operated with due regard to the privacy of individual members of the public, including the right to freedom of religious and political expression and assembly.
4. The public interest in the operation of the surveillance devices will be recognised by ensuring the security and integrity of operational procedures.
5. The Manager Regulatory Services has primary responsibility for compliance with the purpose and objectives of this policy, for the maintenance, management and security of the program, and the protection of public interest in relation to the program.
6. Access to the surveillance monitoring equipment shall be restricted to authorised staff.

The retention of, and access to recorded material will only be for the purposes provided by this policy or applicable laws and in accordance with any requirements for the retention and disposal of personal information as specified in the State Archives and Records' Video/visual surveillance records (GDA8).

4.2 Establishing the use of surveillance

Surveillance devices are a powerful compliance 'tool' which can be deployed to deter illegal activities and to identify any offenders committing offences. The use of surveillance devices requires some effort in both the setup of management systems, and the ongoing implementation of the devices and the images they collect. In all instances Council should ensure:

- It is using the appropriate tool in the circumstances.
- It is implementing appropriate systems to support the efficient and legal use of the devices.
- All staff engaged in the activity and dealing with the devices have the correct delegations to do so.
- All staff engaged in the activity and dealing with the devices have the correct training to do so.

There are a number of actions that should be addressed prior to the use of any surveillance devices, namely consideration of staff delegations and evaluation of any requirements the Council has to 'notify' people about the use of devices. These issues are discussed in the 'Surveillance Devices - Compliance and Law Enforcement Activities Procedure' associated with this Council Policy.



4.3 Public notification of the use of surveillance devices

There is no legislative requirement for councils to notify people of the use of devices, however it should be noted that the PIPP Act requires councils to take such steps as are reasonable in the circumstances to ensure that, before the information is collected or as soon as possible after, the individual is notified of certain information (e.g. the fact that the information is collected, the purposes it is collected for, and the intended recipients of the information etc).

This requirement to notify does not apply if the information is collected for law enforcement purposes but is more relevant to the collection of images of people not involved in committing an offence.

4.4 Public notification of the use of Body Worn Cameras

In the case of born-worn cameras Officers should inform all parties to the conversation/being recorded that a body worn camera is being worn and is recording sound and images. If the conversation continues with no objection, implied consent can be assumed to have been given. If parties to the conversation do object, the camera sound should be turned off unless the use of sound recording is reasonably necessary for the protection of the lawful interests of the Officer.

4.5 Photographic evidence

There is no right to privacy that protects a person's image if photographed in a public place. There is also no restriction on taking photographs of people on private property if taken from public property. However, photographs cannot be taken of a person within a dwelling or other structure which a person might reasonably expect to be private.

Council's authorised officers will at times collect photographic evidence. This photographic evidence may contain images of people and vehicles and therefore will be treated as personal information. If photographs taken by Council were to be characterised as containing personal information then Council will handle and store the personal information to prevent access to these images in accordance with PPIP Act, noting the exemption contained in Section 23 of the PIPP Act concerning law enforcement and related matters. Access will be available to authorised officers of Council only. Again, this is reiterated in the 'Surveillance Devices - Compliance and Law Enforcement Activities Procedure' associated with this Council Policy.

4.6 Law enforcement purposes

Surveillance devices, other than body-worn cameras, shall only be used to collect data for law enforcement purposes.

Examples of law enforcement purposes include:

- To identify people and/or vehicles involved in the unlawful activities such as, but not limited to, disposal of waste at a known dumping hot spot(s), vandalism, illegal parking or illegal camping.
- To identify vehicles accessing a property that is reasonably suspected of being used for an unapproved purpose/development such as, but not limited to, an unlawful waste facility or illegal clearing or filling.
- To observe unlawful activities conducted on public or private land such as, but not limited to, an alleged unlawful waste facility, waste storage, unauthorized development or pollution incidents.

Body-worn cameras may be used for wider purposes than law-enforcement as long as their use is lawful and complies with this policy.

4.7 Footage of alleged criminal behaviour

In the event that an authorised staff member captures footage and/or recorded materials which are considered to be criminal behaviour, the staff member will:

- Refer the incident as soon as possible to their supervisor



- Notify the Police as to the circumstances of any alleged criminal event
- Ensure footage is secured, saved and marked appropriately in the event that it is required for law enforcement or legal purposes.

5. Implementation

The implementation of the Council Policy is detailed in the 'Surveillance Device Use for Compliance and Law Enforcement Activities Procedure' associated with this Council Policy. The Procedure contains further detail about:

- Governance issues regarding surveillance devices:
 - Staff delegations
 - Public notification regarding the use of surveillance devices
 - Staff notification regarding the use of surveillance devices
 - Standardising Jurats – to ensure consistency across all users
- Survey device placement
- Management of surveillance devices and images
- Photographic evidence
- Installation of devices and signage
- Maintenance of records
- Implementation procedure for both surveillance device camera evidence and photographic and body camera evidence.

6. Related Documents

Hawkesbury City Council Surveillance Devices - Compliance and Law Enforcement Activities Procedure.