



TATIARA DISTRICT COUNCIL

BODY WORN CAMERAS, CCTV AND GPS TRACKING DEVICES POLICY

Version:	1
Last revised date:	New Policy
Minutes reference:	Agenda item 16.3, 10/3/20 Resolution # 2020/57
Next review date:	Council will endeavour to review this policy every 3 years
Applicable Legislation:	<i>Local Government Act 1999, s270</i>
Related Policies:	Records Management Policy
Related Procedures:	Nil
Other relevant documentation:	Nil

1. Introduction

This Policy guides the use of body worn cameras, Closed Circuit Television (CCTV) systems, and GPS tracking devices by the Tatiara District Council (the Council).

2. Purpose

- 2.1 This Policy outlines the circumstances in which CCTV systems, body worn cameras and GPS tracking devices will be used by the Council and provides guidance in relation to the storage of and provision of access to the data recorded by such devices.
- 2.2 The primary purposes for utilising Body Worn Cameras, CCTV systems and GPS tracking devices are to:
- 2.2.1 protect the Council's assets from theft and damage;
 - 2.2.2 ensure the security and safety of Council staff and members of the community;
 - 2.2.3 discourage the incidence of unlawful activity within the Council's area; and
 - 2.2.4 assist in the investigation of unlawful activity and in holding offenders to account.

3. Policy Objectives

- 3.1 The Council takes a proactive approach towards community safety (including by taking measures within its power to reduce crime in its area) and improving the security of Council staff.
- 3.2 In this context, the Council supports the use of body worn cameras, CCTV systems and GPS tracking devices for or in connection with the following purposes:
- 3.2.1 reducing personal and property crime;
 - 3.2.2 deterring undesirable behaviour;
 - 3.2.3 protecting people and assets;
 - 3.2.4 obtaining reliable information for evidentiary purposes;
 - 3.2.5 providing evidence to an investigative authority;
 - 3.2.6 enhancing community well-being including by reducing the fear of crime;
 - 3.2.7 providing a healthy and safe workplace for Council employees; and
 - 3.2.8 obtaining relevant data for fleet and asset management purposes.

4. Definitions

For the purpose of this Policy:

- 4.1 **audio/visual recordings** means any sound and/or video recordings or data captured by a surveillance device;
- 4.2 **body worn cameras** means a camera designed to be worn by a person to make audio and/or visual recordings;

- 4.3 **CCTV system** means a Closed Circuit Television system that is used for video surveillance and involves the use of cameras (fixed or otherwise) to record data whether or not those cameras transmit recordings to an external device or monitor;
- 4.4 **Chief Executive Officer** means the Chief Executive Officer of the Council (including any person acting in that office) or the Chief Executive Officer's delegate;
- 4.5 **Council** means the Tatiara District Council and includes any delegate of the Tatiara District Council;
- 4.6 **General Disposal Schedule 20** or **GDS 20** is a systematic listing of records created by a local government organisation and prescribes the retention periods that are to be applied to official records;
- 4.7 **GPS** means a device capable of determining its location via a satellite-based navigation system (global positioning system);
- 4.8 **information management** refers to the collection and management of data generated by or obtained from a surveillance device;
- 4.9 **official record** means a written, graphic, disk, tape, film or other object that contains information made or received by Council in the conduct of its business or, from which information may be reproduced (with or without the aid of another object or device); and
- 4.10 **private activity** means an activity carried on by one or more persons that:
- 4.10.1 in the case of an activity carried on by only one person is carried on in circumstances that may reasonably be taken to indicate that the person does not desire it to be observed by any other person; or
- 4.10.2 in the case of an activity carried on by more than one person, is carried on in circumstances person in circumstances that may reasonably be taken to indicate that at least 1 party to the activity desires it to be observed only by the other parties to the activity
- but **does not include**:
- 4.10.3 an activity carried on in a public place; or
- 4.10.4 an activity carried on or in premises or a vehicle if the activity can be readily observed from a public place; or
- 4.10.5 an activity carried on in any other circumstances in which a person or party to the activity ought reasonably to expect that it may be observed by another person (who is not a party to the activity).
- 4.11 **private conversation** means a conversation carried on in circumstances that may reasonably be taken to indicate that at least one party to the conversation desires it to be heard only by the other parties to the conversation (but does not include a conversation made in circumstances in which all parties to the conversation ought reasonably to expect that it may be heard by a person who is not a party to the conversation); and
- 4.12 **public place** includes—
- 4.12.1 a place to which free access is permitted to the public, with the express or tacit consent of the owner or occupier of that place; and

- 4.12.2 a place to which the public are admitted on payment of money, the test of admittance being the payment of money only; and
- 4.12.3 a road, street, footway, court, alley or thoroughfare which the public are allowed to use, even though that road, street, footway, court, alley or thoroughfare is on private property;
- 4.13 **surveillance device** means a surveillance device operated and maintained by the Council (or a Council officer) and includes a body worn camera, a CCTV system and a GPS tracking device.

5. Legislative Requirements

- 5.1 This Policy has been prepared taking into account the requirements of the *Surveillance Devices Act 2016*, the *State Records Act 1997* and the *Freedom of Information Act 1991*.
- 5.2 The primary purpose of a surveillance device is to enhance the safety of the community and protect Council staff and property. However, data captured by a surveillance device constitutes an “official record” for the purposes of the State Records Act. To that end, such data is subject to the Council’s record keeping obligations and can only be disposed of in accordance GDS 20¹.
- 5.3 The Freedom of Information Act facilitates access, by members of the public to records held by the Council. Official records of Council, including data captured by Council surveillance devices may be accessible to an applicant under the Freedom of Information Act.
- 5.4 The Council is aware that the use of surveillance devices to make visual and/or audio recordings and/or for GPS tracking purposes is regulated under the Surveillance Devices Act. The Council will take all reasonable measures to ensure compliance with the requirements of the Surveillance Devices Act in connection with its use of surveillance devices.
- 5.5 In particular, a body worn camera or a CCTV system will only be used to record a private activity or a private conversation in accordance with the Surveillance Devices Act. This includes (but is not limited to) if:
- 5.5.1 all principal parties to the conversation or activity consent, expressly or impliedly, to the relevant device being used for the recording;
- 5.5.2 the use of the device is in the public interest; or
- 5.5.3 the use of the device is reasonably necessary for the protection of the lawful interests of the person using the device.
- 5.6 If criminal activity is recorded on a surveillance device, the Council will, where appropriate, refer the matter to the South Australian Police (SAPOL), or another appropriate enforcement agency for action as that authority sees fit.

6. Use of CCTV Systems

- 6.1 The Council may install or operate a CCTV system on its land or, on private land with the permission of the owner of that land. In the latter case, a record of permission given by a land owner will be retained by the Council.

¹ For example, item 14.76.2 of GDS 20 specifically provides that “video surveillance recordings” are temporary records which may be destroyed six months after the last action taken in relation to them.

- 6.2 Council staff are responsible for the management of any CCTV system located on Council property or that is otherwise operated by or on behalf of the Council. Maintenance and installation of fixed cameras will be undertaken by an appropriately qualified technician or security person.
- 6.3 Fixed CCTV systems will, wherever practicable, be installed in accordance with appropriate Australian Standards and placed in visible locations as determined by Council staff.
- 6.4 The Council may, from time to time, install a temporary CCTV system or other cameras for the purposes of making video recordings. For example, cameras may be installed in a specific location to deter or capture evidence of illegal dumping in that location.
- 6.5 All persons involved in the operation of a CCTV system (fixed or otherwise) must exercise due care to prevent improper disclosure of data captured by the CCTV system.
- 6.6 All recordings made by a CCTV system will be managed by Council staff and securely stored and destroyed in accordance with the requirements of the State Records Act.

7. Using Body Worn Cameras

- 7.1 The Council may require body worn cameras to be worn by Council officers (as determined by the Chief Executive Officer or his/her delegate) in the course of their duties.
- 7.2 Officers who are required to wear a body worn camera will receive appropriate training regarding its lawful use.
- 7.3 A body worn camera may, subject to paragraph 5.6 above, lawfully be activated by a Council officer for the purposes of making video and/or audio recordings where this is:
 - 7.3.1 necessary to protect the officer's interests, including in the event the officer perceives a threat to the officer's safety or welfare;
 - 7.3.2 in the public interest; or
 - 7.3.3 in accordance with any legislative powers conferred on the officer (for example, as a result of the officer being appointed by the Council as an authorised person under legislation) for evidence gathering purposes.
- 7.4 Prior to activating a body worn camera, or as soon as practicable after doing so, Council officers must verbally advise any persons in the vicinity that the camera has been activated (and is recording) unless the officer considers such action would place the officer's safety at risk.
- 7.5 In some cases, a body worn camera that is required to be worn by a Council officer in the course of the officer's duties may have capabilities to operate as a GPS tracking device. In this case, the officer will be notified of this and that the Council may use the body worn camera to determine the office's location from time to time.
- 7.6 Body worn cameras will be calibrated on a regular basis as necessary to ensure the accuracy and reliability of recorded data. A record must be maintained each time a device is calibrated.
- 7.7 All officers who wear a body worn camera during the course of their official duties must:

- 7.7.1 ensure that all data captured by the device when it is activated by the officer is securely stored in the Council's computer system; and
- 7.7.2 exercise due care to prevent improper disclosure of data captured by the device.

8. GPS Tracking Devices

- 8.1 The Council may fit its vehicles, or items of plant and equipment with a GPS tracking device to determine its geographical location and capture usage information of that vehicle, item of plant and equipment at any time.
- 8.2 Council officers who operate a Council vehicle, item of plant or equipment will be informed as to which vehicles, item of plant or equipment, if any, are fitted with a GPS tracking device. Vehicles, items of plant and equipment fitted with GPS will also be identified through dash board stickers.
- 8.3 Council officers are, without authority from the Chief Executive Officer, prohibited from interfering with any GPS tracking device in a vehicle, or item of plant or equipment. Unauthorised interference with a GPS tracking device by a Council officer may result in disciplinary action.

9. Information Management

- 9.1 All recordings from a surveillance device will be stored in accordance with the Council's obligations under the State Records Act.
- 9.2 Officers responsible for the management of data from a surveillance device must exercise care to prevent improper disclosure of information.
- 9.3 Where access to data is provided to a third party, a record of such access (including details of who accessed the data, when and for what purpose) must be made.

10. Public Notification

- 10.1 The Council will display a sign (or signs) in a prominent location where a fixed CCTV system is being operated by the Council to notify persons of the use of the CCTV system in that area.
- 10.2 Body worn cameras will be worn by Council officers in a conspicuous position on the officer's body. Prior to activating a body worn camera, or as soon as practicable after doing so, Council officers must verbally advise any persons in the vicinity that the camera has been activated unless the officer considers doing so would place the officer's health or safety at risk.

11. Access to Data

- 11.1 Members of the Public/Media:
 - 11.1.1 Members of the public, including the media, may apply to view any official records (including data from a surveillance device) kept by the Council. Access to data from a surveillance device may be obtained through an application made under the Freedom of Information (FOI) Act. An application received under the FOI Act must be determined by an accredited FOI Officer. If the application is granted, access to data will be provided in the manner determined by the accredited FOI Officer.
- 11.2 Elected Members:
 - 11.2.1 Section 61(1) of the *Local Government Act 1999* provides that "a member of a Council is entitled at any reasonable time, in the connection with the performance or discharge of the functions or duties of the member (whether

- under this or another Act), without charge, to have access to any relevant Council document”.
- 11.2.2 Section 61(2) of Local Government Act requires any request for access to be directed to the Chief Executive Officer of the Council or such other officers as the Chief Executive Officer has specified.
- 11.2.3 The Chief Executive Officer may approve a request from a member for access to data from a surveillance device provided that:
- 11.2.3.1 the member makes the necessary request in writing and includes reasons for the request; and
- 11.2.3.2 the Chief Executive Officer is satisfied that access to the relevant information is connected with the performance or discharge of the member’s functions or duties.
- 11.2.4 Where a member’s request to access data is approved, access will be provided in the manner determined by the Chief Executive Officer.
- 11.2.5 In some cases, data from a surveillance device may be provided to members by way of being included in public agendas and reports for a Council meeting. Where this occurs, the Council will redact any personal information contained in the data where it considers this is appropriate.
- 11.3 Access by Council Officers and by an Investigative Authority:
- 11.3.1 Council officers will be permitted to access data from a surveillance device where this is necessary for the performance of the officer’s functions and duties.
- 11.3.2 Any requests by a Council officer to access data that is not otherwise available to the officer in the ordinary course of the officer’s duties must be directed to the Chief Executive Officer.
- 11.3.3 Any request by an investigative authority (including, but not limited to, SAPOL, the Ombudsman or the ICAC) to access data from a surveillance device must be directed to the Chief Executive Officer in writing and include reference to the legislative powers pursuant to which the request is made.
- 11.3.4 For the avoidance of doubt, the Council will ensure that data from a surveillance device is duly provided to an investigative authority where the provision of such data is required by law as soon as practicable after a request has been made.

12. Privacy Statement

- 12.1 Data from a surveillance device may contain personal information of an individual. Whilst there is no privacy legislation that applies to the Council, as a general rule, the Council will not make use of private information collected in the conduct of its business (including in connection with the operation of a surveillance device) other than for the purposes for which the information was obtained.
- 12.2 Private information from a surveillance device will only be disclosed in accordance with this Policy.

13. Availability of Policy

This Policy will be available for inspection at the Council offices during ordinary business hours at no charge. The Policy is also available on the Council’s website www.tatiara.sa.gov.au.

14. Review

This Policy will be reviewed every three years or as otherwise required as a result of legislative change or, in accordance with a Council resolution.