

BODY WORN CAMERA POLICY

COMMUNITY POLICY



1 Scope

This policy applies to Rockhampton Regional Council employees or contractors who use or manage the operations of body worn cameras and the recorded data.

This policy does not apply to CCTV and camera surveillance systems or other digital recording devices.

2 Purpose

The purpose of this policy is to outline the principles relating to the use of BWCs and the management of the recorded data.

3 Related Documents

3.1 Primary

Nil

3.2 Secondary

Crime and Corruption Act 2001

Criminal Code Act 1899

Environmental Protection Act 1994

Evidence Act 1977

Human Rights Act 2019

Information Privacy Act 2009

Local Government Act 2009

Privacy Act 1988 (Cwth)

Public Records Act 2002

Right to Information Act 2009

Administrative Access Scheme

Body Worn Camera Work Instruction

Camera Surveillance Policy

Body Worn Camera Footage Release Request Form (Council Employees)

Body Worn Camera Footage Release Request Form (External Regulatory Body)

Body Worn Camera Footage Release Request Form (QPS)

Code of Conduct

Complaints Management Policy

Creating Privacy Collection Notices Guideline

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Enforcement Strategy

General Retention and Disposal Schedule – Queensland State Archives

Guidelines *Information Privacy Act 2009*, Camera Surveillance and Privacy, Office of the Information Commissioner

Investigation Procedure

Large File Recordkeeping Whole of Council Work Instruction

Prevention in Focus, Body Worn Cameras – Their Role in Complaint Resolution, November 2018, Crime and Corruption Commission Queensland

Privacy Policy

Records Governance Policy – Queensland State Archives

Recording of Investigative Activities Procedure

Recordkeeping Policy

Right to Information Access Application Form

Right to Information Policy

Standing Authorisation to Destroy Records in the Council Records Repository

4 Definitions

To assist in interpretation of this policy the following definitions apply:

Authorised Person	A person who is appointed under a Local Government Act to ensure members of the public comply with the relevant Local Government acts in relation to the local government and the Region.
BWC	Body worn camera, a wearable camera system incorporating an audio and video, or photographic recording system used to record events when authorised persons are performing their duties. Includes the use of a mobile phone device whilst using the Axon Capture application.
Camera Surveillance	Includes any equipment used to observe and record images and audio, such as CCTV, temporary or fixed cameras and trail cameras. This excludes body worn cameras and drones.
CCTV	Closed circuit television, the use of video cameras to transmit images to a specific site where it can be monitored by authorised employees, contractors or QPS staff for surveillance in public spaces or the protection of assets in accordance with the Camera Surveillance Policy.
CEO	Chief Executive Officer A person who holds an appointment under section 194 of the <i>Local Government Act 2009</i> . This includes a person acting in this position.
Contractor	A person, organisation or entity that performs a specific act or acts including the provision of services and/or materials to another person, organisation or entity under an agreement enforceable by law.
Council	Rockhampton Regional Council
Covert Recording	Occurs when one or more parties to a conversation or event are unaware a recording is taking place.

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Employee	Local government employee: a) The CEO; or b) A person holding an appointment under section 196 of the <i>Local Government Act 2009</i> .
General Manager	An employee appointed to a position with a corporate band 2 delegated in accordance with the Delegation and Authorisation Policy and detailed in the Delegations Corporate Register.
Incident	Incidents whilst conducting compliance and enforcement activities including but not limited to: a) An engagement with a member of the public which in the opinion of the authorised person is, or may become, confrontational; b) An authorised person being approached by a member of the public in a manner perceived as aggressive or threatening; c) The authorised person is witnessing behaviour that they consider constitutes an offence as prescribed by the local government acts; or d) Any instance in which the authorised person feels they may be required to substantiate their actions or decisions, or manner of interaction with a member of the public.
Law Enforcement Agency	As defined in Schedule 5 of the <i>Information Privacy Act 2009</i> : An agency, to the extent it has responsibility for the performance of functions or activities directed to the prevention, detection, investigation, prosecution or punishment of offences and other breaches of laws for which penalties or sanctions may be imposed. Council is a law enforcement agency for the purposes of the <i>Information Privacy Act 2009</i> however this does not extend to other legislation unless stated.
Local Government Acts	As detailed in Schedule 4 of the <i>Local Government Act 2009</i> , a law under which a local government performs the local government's responsibilities, including for example: a) This Act; b) A local law; c) The Building Act; d) The Planning Act; e) A planning scheme; f) The Plumbing and Drainage Act; g) The <i>Water Act 2000</i> ; and h) The <i>Water Supply (Safety and Reliability) Act 2008</i> .
Manager	An employee appointed to a position with a corporate band 3 delegated in accordance with the Delegation and Authorisation Policy and detailed in the Delegations Corporate Register.
NDAA	National Defence Authorisation Act
QPS	Queensland Police Service
Region	Rockhampton Regional Area defined by the Local Government Areas of Queensland.

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5 Policy Statement

Council endeavours to protect the community through effective and efficient compliance and enforcement activities in accordance with local government acts and policy. Monitoring compliance and enforcement activities are undertaken in a variety of ways including the use of BWCs and evidence management systems of these recordings.

Council authorises the use of BWCs in circumstances where authorised persons are responsible for engaging with individuals or entities for the purpose of prevention, detection, investigation, prosecution or punishment of offences and other breaches of local government acts.

Depending on an authorised persons purpose of entry and legislation under which entry to property is made, authorised persons may have a number of specified powers such as “inspect, test, photograph or film anything that is in or on the property” detailed in the following legislation:

- (a) *Local Government Act 2009*, section 135;
- (b) *Animal Management (Cats and Dogs) Act 2008*, section 123;
- (c) *Environmental Protection Act 1994*, section 460;
- (d) *Food Act 2006*, section 182;
- (e) *Public Health Act 2005*, section 399; and
- (f) *Public Health (Infection Control for Personal Appearance Services) Act 2003*, section 86.

5.1 Usage

BWCs and evidence management systems are operated within applicable legislation and only for the intended purposes which may include:

- (a) Assist in the lawful collection of evidence for actual or suspected breaches of local government acts;
- (b) Maintain and improve community safety;
- (c) Mitigate identified risks to the health, safety and welfare of employees and/or contractors in the execution of their duties;
- (d) Provide a record of the interaction between an authorised person and a potential complainant in situations that may result in an allegation of inappropriate behaviour or other complaint;
- (e) Assist in the investigation of allegations of inappropriate conduct by authorised persons; and/or
- (f) Assist in circumstances where an authorised person considers an interaction may develop into an incident.

Authorised persons issued with a BWC must ensure the BWC is positioned in a prominent location on the authorised person’s body, uniform or clothing. Authorised persons must ensure the BWC is not deliberately concealed and a collection notice is given in accordance with paragraph 5.1.1. If asked, an authorised person must confirm use of the BWC.

Recordings should only commence when:

- (a) Exercising the powers of an authorised person for example, identifying minor traffic offences, warrant entry or seizure;
- (b) Investigating customer requests where interactions with alleged offenders or complainants are likely;
- (c) Potential threatening interactions, incidents or safety observations; and
- (d) Gathering evidence to support an administrative decision or action that provides a record of events for example impounding a wandering animal or impounding a vehicle.

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BWCs should not be used:

- (a) In places where a reasonable expectation of privacy exists for example changing rooms, toilets etc;
- (b) On Australian Defence Force facilities;
- (c) Within the precincts of a court;
- (d) To record a medical procedure or medical record at a medical facility;
- (e) In a correctional or asylum facility where CCTV is operational;
- (f) Covertly to capture imagery into a private place or record any conversations, unless the recording is specifically authorised in accordance with the Recording of Investigative Activities Procedure;
- (g) To record private conversations that you are not directly involved in; and
- (h) For off duty activities.

Recordings should be uninterrupted and commenced prior to the start of an activity, interaction or incident until a short period after the conclusion of the interaction or incident to clearly demonstrate that the matter has concluded.

Recordings must not be deleted from the BWC by an authorised person in the field.

5.1.1 Collection Notice

In accordance with the Creating Privacy Collection Notices Guideline the authorised person must inform the individual (or group) that the BWC is switched on and recording. There may be occasions when informing an individual or group of recording activity may have potential to escalate the incident or put the authorised person in danger. In these circumstances, the collection notice information may not be provided, the authorised person should verbally justify their decision before ending the recording.

5.2 Public Interest

BWCs are operated with due regard to the privacy and civil liberties of members of the public, employees and contractors by:

- (a) Maintaining this policy and the BWC Work Instruction that recognises privacy, security and integrity for the operation of BWCs and the use of the evidence management system;
- (b) Aligning the use of BWCs with the Queensland Privacy Principles; and
- (c) Informing authorised persons involved in the recording, observation and capture of images of the BWC Work Instruction and their responsibility to act in an ethical and lawful manner as required by legislation.

Operating BWCs must be undertaken with due regard to the principle that everyone has the right to respect for their private and family life in their home and that the use of BWCs must be authorised, justified, proportionate, legitimate and necessary.

To minimise collateral intrusion to those not involved, recordings must be restricted to areas and persons necessary in order to obtain evidence and intelligence relevant to the incident or the authorised person's official duties.

As far as practicable, children and minors aren't captured on video footage.

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5.3 Human Rights

In creating this policy Council has considered all human rights protected under the *Human Rights Act 2019* in order to identify which human rights are relevant to this policy. As a result of this consideration, Council identified that the human right to privacy and reputation are relevant to this policy. Any limitation of human rights are reasonable and justified in the circumstances in accordance with section 13 of the *Human Rights Act 2019*. When applying this policy, Council acts and makes decisions in a way that is compatible with human rights and gives proper consideration to a human right relevant to the decision in accordance with the *Human Rights Act 2019*.”

5.4 Recordkeeping

Authorised persons using BWCs are able to view, label and categorise captured video files.

Videos, photos and other electronically recorded information captured from the BWCs are uploaded to the evidence storage system and should be labelled and categorised.

The following three fields are available and should be applied to the recorded information to satisfy the general retention and disposal schedule:

- (a) Identification number, usually the customer request number (mandatory);
- (b) Title, including the activity recorded, location and points of note, for example customer request type or offence type; and
- (c) Category, set fields to classify the retention and disposal requirements (mandatory).

The identification number and category fields are mandatory and should be completed on all videos, photos and other electronically recorded information.

These fields are searchable from the evidence management system and assists in retrieving records.

All data is recorded, kept and disposed in accordance with the Standing Authorisation to Destroy Records in the Council Records Repository as approved by the general manager.

If a recording is to be used as part of any internal or external investigation or it relates to the issue of any form of compliance document or penalty notice, the relevant recording is retained in accordance with the General Retention and Disposal Schedule and subsequently managed in accordance with Council's Recordkeeping Policy and the Large File Recordkeeping Whole of Council Work Instruction.

5.4.1 Access to Footage

Access to footage may be granted if the request relates to the purpose of the collection and required in relation to the investigation of incidents pertaining to work, health and safety; unlawful, suspicious, inappropriate or unauthorised activity; security; public safety; or serious allegations about conduct or behaviour.

5.4.1.1 Internal Requests

Employees who are not authorised to operate a BWC or the evidence management system must seek approval by submitting a Body Worn Camera Footage Release Request Form (Council Employees) to view any footage or images unless lawfully allowed under a legislative requirement. Approval may be granted by the manager of the section who manages the recording.

Access to view any recordings for investigation purposes may be authorised under the Investigation Procedure.

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5.4.1.2 Law Enforcement Agencies or Regulatory Bodies

The QPS and/or other law enforcement agencies may request to view or retrieve a copy of BWC footage, if it is deemed reasonably necessary for a law enforcement activity. Such requests are assessed as soon as reasonably practicable.

Any request for footage must be made on the relevant form (Body Worn Camera Footage Release Request Form (External Regulatory Body) or Body Worn Camera Footage Release Request Form (QPS)) and include a detailed reason and legislative requirement to access the footage. QPS applications must be made by a sworn officer of the QPS. Applications from other Government agencies must be made by an officer with the appropriate delegation. Approval may be granted by the manager of the section who manages the recording.

5.4.1.3 Other External Requests

Any member of the public who has been recorded by a BWC may request access to the recording. Where the person requesting the recording is the only person recorded, Council may release it under the Administrative Access Scheme. Where there is more than one individual recorded, individuals may request access to the recording by completing a Right to Information Access Application under the provisions of the *Right to Information Act 2009* to ensure all parties rights to privacy are considered.

Prior to information being released under the provisions of the *Right to Information Act 2009*, authorised persons may modify the footage to ensure the privacy of other persons is protected.

5.5 Security of Equipment and Recordings

The operation of BWCs and the evidence management system is restricted to authorised persons and use is in accordance with the BWC Work Instruction.

Authorised persons and contractors who have access to BWCs and the evidence management system must be subject to a criminal history check.

Measures are taken to protect against unauthorised access, alteration, dissemination, disclosure, loss or destruction of recorded material.

It is preferred for the BWC to be docked and stored at a Council office at the completion of each rostered day and collected at the start of each rostered day, unless required when on call, to ensure protection against unauthorised access, alteration, dissemination, disclosure, loss or destruction of recorded material and devices. Where work activities make it impractical to attend a Council office at the completion of the day it is sufficient to keep the BWC in a secure location and dock the next working day.

Equipment is to be inspected and maintained to ensure its effective operation and replaced when required. All body worn camera equipment purchased must be NDAA compliant.

The loss or theft of any BWC is investigated to minimise damage, especially in respect to the loss of any third party's personal information.

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5.6 Authorisation of Use

The following positions are authorised to approve the use of BWC devices:

- (a) CEO;
- (b) General managers;
- (c) Managers;
- (d) Coordinator Local Laws; and
- (e) Local Laws Supervisors.

5.7 Complaints and Breaches

Breaches of this procedure by Council employees or contractor employees may constitute a breach of the Code of Conduct. Disciplinary action may be taken.

It is recognised that there may be concerns or complaints in respect to the operation of a body worn camera. Any concerns or complaints are managed in accordance with Council's Complaints Management Policy.

6 Review Timelines

This policy is reviewed when any of the following occur:

- (a) The related information is amended or replaced; or
- (b) Other circumstances as determined from time to time by the Council.

7 Document Management

Sponsor	Chief Executive Officer
Business Owner	General Manager Community Service
Policy Owner	Manager Planning and Regulatory Services
Policy Quality Control	Legal and Governance



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