

DRAFT CODE OF PRACTICE CLOSED CIRCUIT TELEVISION (CCTV) SYSTEM PROGRAMME POLICY

| | | | |
|-----------------------------|--------------------------|------------------------|---|
| QUALITY CONTROL | | | |
| TRIM REFERENCES | D18/11035 | | |
| RESPONSIBLE POSITION | Director Corporate | | |
| APPROVED BY | Council Resolution | | |
| REVIEW DATE | | REVISION NUMBER | 1 |
| EFFECTIVE DATE | ACTION | MINUTE NUMBER | |
| 26/06/2019 | Public Exhibition | 46101 | |

1. INTRODUCTION

Closed Circuit Television (CCTV) can bring benefits to the community and assist in identifying and reducing crime which can lead to enhanced public safety in particular locations or in a particular area. CCTV adds security for the protection of Council assets by aiming to prevent, deter and detect incidents of damage and antisocial behaviour.

This Policy, which is designed to operate as a Code of Practice, contains the basic standards in accordance with which Council's CCTV Program will be operated. It is supplemented by Confidential Standard Operating Procedures (SOPs) which provide instructions on aspects of the day to day operation of the Program.

2. POLICY OBJECTIVE

The aim of the CCTV Program is to discourage and/or detect unlawful behaviour in or around council property and in partnership with the NSW Police Force.

This Policy applies to all Council owned CCTV systems installed in public places and CCTV cameras in or on Council property that have the purpose of surveillance.

The objective of the Code of Practice and SOP is to outline the basic standards under which CCTV will be operated by Broken Hill City Council.

The objectives of the CCTV Program are as follows:

- 2.1** To reduce crime levels by deterring potential offenders;
- 2.2** To reduce fear of crime;
- 2.3** To assist in the detection and prosecution of offenders; and

- 2.4** To help secure a safer environment for those people who live in, work in and visit Council Facilities and public spaces

3. POLICY SCOPE

CCTV cameras, are installed as part of Broken Hill City Council assets, including Council facilities.

3.1 This Policy applies to CCTV systems installed in the following public spaces

3.1.1.Sturt Park;

3.1.2.Patton Park;

3.1.3.Outside the Civic Centre;

3.1.4.Outside the Administrative Centre;

3.1.5.Cemetery;

3.1.6.Mobile cameras at the Broken Hill Waste Facility

3.2 This Policy also applies to CCTV systems installed in the following Council facilities

3.2.1.Charles Rasp Memorial Library;

3.2.2.Broken Hill Regional Art Gallery;

3.2.3.Broken Hill Regional Airport;

3.2.4.Albert Kersten Mining and Mineral Museum;

3.2.5.Weigh bridge at the Broken Hill Waste Facility;

3.2.6.Broken Hill Regional Aquatic Centre;

3.2.7.HACC.

It is acknowledged that CCTV cameras installed in public place locations and as part of Broken Hill City Council infrastructure may also capture Broken Hill City Council officers performing work tasks. CCTV that is subject to this Code is not designed to intentionally provide workplace surveillance.

4. POLICY STATEMENT

CCTV can be effective in reducing or preventing crime if it is part of a broader crime prevention and community safety strategy. CCTV can bring benefits to the community through a reduction in crime which can lead to enhanced perceptions of safety in a particular area.

CCTV is one of several initiatives designed to assist in preventing crimes in the Broken Hill local government area. It assists Council and NSW Police Force – Barrier Police District to work together to help provide a safer environment, reduce crime levels by deterring potential offenders, aid crime detection and the apprehension of offenders.

This Code of Practice will be developed by Broken Hill City Council, in consultation with Barrier Police District. The NSW Government's Policy Statement and Guidelines for the Establishment and Implementation of CCTV in Public Places was used as a guide for the development of the CCTV Program.

5. KEY PRINCIPLES

5.1 The Code of Practice is based on 15 key principles. In each section the key principle is stated, followed by further explanatory information.

5.2 The key principles are as follows:

Principle 1

The CCTV Program will be operated fairly, within applicable law, and only for the purposes for which it is established or which are subsequently agreed in accordance with this Code of Practice.

Principle 2

The CCTV Program will be operated with due regard to the privacy and civil liberties of individual members of the public, including the rights to freedom of religious and political expression and assembly.

Principle 3

The public interest in the operation of the CCTV Program will be recognised by ensuring the security and integrity of operational procedures.

5.3 The primary purpose of Broken Hill City Council's CCTV Program is to assist in the prevention of crimes against the person, particularly the following:

- 5.3.1.** Armed robbery;
- 5.3.2.** Robbery with wounding;
- 5.3.3.** Robbery in company of others;
- 5.3.4.** Extortion;
- 5.3.5.** Assault;
- 5.3.6.** Act of terrorism;
- 5.3.7.** Assault occasioning grievous bodily harm;
- 5.3.8.** Assault occasioning actual bodily harm;
- 5.3.9.** Sexual assault; and
- 5.3.10.** Aggravated sexual assault.

5.4 The secondary purpose of the CCTV Program is to assist in the prevention of other serious criminal offences, particularly the following:

- 5.4.1.** Steal motor vehicle;
- 5.4.2.** Steal from motor vehicle;
- 5.4.3.** Other steal;
- 5.4.4.** Break and enter;
- 5.4.5.** Malicious damage to property;
- 5.4.6.** Firearm offences;
- 5.4.7.** Receiving stolen goods; and
- 5.4.8.** Dealing or trafficking in drugs.

5.5 The CCTV Program will only be used to identify crimes occurring within the area covered by the Program.

- 5.6 The CCTV Program may be used for intelligence gathering on individuals and locations, in relation to offences within the scope of the Program.
- 5.7 The CCTV Program may be used for NSW Police Force special operations, targeting offences covered under the Code of Practice.

6. RESPONSIBILITIES OF THE OWNER OF THE PROGRAM

Principle 4

Broken Hill City Council has primary ownership and responsibility for compliance with the purposes and objectives of the CCTV Program, for the maintenance, management and security of the CCTV Program, and the protection of the interests of the public in relation to the Program.

- 6.1 The Broken Hill City Council will be responsible for the introduction and implementation of the Code of Practice and for ensuring compliance with the principles contained within the Code.
- 6.2 The Broken Hill City Council will comply with the requirements for accountability set out in this Code of Practice.
- 6.3 The Broken Hill City Council will consult with and provide information to the public about the operation of the CCTV Program and about any proposed changes to the Program or Code of Practice.
- 6.4 The Code of Practice can only be changed in compliance with Section 16 of this Code.
- 6.5 Broken Hill City Council retains ownership and has copyright in all documentation and other material related to the CCTV Program.

7. RESPONSIBILITIES OF PARTNER TO THE PROGRAM

Principle 5

As a partner to Broken Hill City Council CCTV Program, the NSW Police Force will act in accordance with the Code of Practice.

- 7.1 Incidents that may involve or lead to a crime against a person, serious threats to public safety, or other serious criminal offence, will be reported to an arranged police contact. The police will assess the situation and determine an appropriate response to the incident.
- 7.2 A Memorandum of Understanding (MoU) in relation to the CCTV Program will be entered into by both the Broken Hill City Council and the NSW Police Force – Barrier Police District outlining in detail the respective roles of both parties. The MoU and any variations to it, are to be approved by the General Manager.
- 7.3 The Barrier Police District will be requested to provide Broken Hill City Council with crime statistics in relation to criminal offences for the CCTV Program to be reviewed, evaluated and audited.

8. ACCOUNTABILITY

Principle 6

Broken Hill City Council will be accountable to the public for the effective operation and management of the CCTV Program.

8.1 Broken Hill City Council's Risk and Improvement Committee will undertake and audit function:

- 8.1.1.** To provide an independent and continuous review and checking mechanism, for the CCTV Program;
- 8.1.2.** To promote public confidence in the CCTV Program by ensuring its operations are transparent to the public and undergoing independent scrutiny and review;
- 8.1.3.** To identify and report on any deviations from the Code of Practice, Protocols or SOPs that come to notice during audit;
- 8.1.4.** To assist in the evaluation of the CCTV program to identify if the purposes of the Program are being complied with and objectives are being achieved;
- 8.1.5.** To recommend action that will safeguard the Program from abuse.

8.2 Broken Hill City Council will undertake an annual audit of the CCTV Program, its operations and Code of Practice. The report will be submitted to the Privacy Commission.

8.3 Both the General Manager and Public Officer, have an unfettered right of inspection of all facilities associated with external CCTV monitoring, including files and registers. All access should be recorded in the register including the identity of the accompanying person.

9. PUBLIC INFORMATION

Principle 7

The public will be provided with clear and easily accessible information in relation to the operation of Broken Hill City Council's CCTV Program.

9.1 Clearly visible signs that CCTV are operating will be displayed at the perimeter of the area covered by the system and at other key points.

9.2 Copies of the Code of Practice will be made available on Council's website. The availability of the Code of Practice will be publicised in connection with any publicity arranged for the CCTV Program.

9.3 A member of the public has the right to apply for access to personal information held by Broken Hill City Council in the following ways:

- 9.3.1.** A person can apply for information under the *Government Information (Public Access) Act 2009*. A copy of the Formal Access Application Form can be obtained from Council's website www.brokenhill.nsw.gov.au
- 9.3.2.** Any person applying for access to their personal information will be required to specify the following details

9.3.2.1. Approximate location footage was taken from; and

9.3.2.2. Approximate date and time footage was taken

9.4 Enquiries in relation to the Broken Hill City Council's CCTV Program and its operation can be made in writing to:

The General Manager
Broken Hill City Council
PO Box 448
BROKEN HILL NSW 2880
Email: council@brokenhill.nsw.gov.au

10. ASSESSMENT OF THE SYSTEM AND CODE OF PRACTICE

Principle 8

Regular monitoring and evaluation of the CCTV Program will be undertaken to identify whether the purposes of the Program are being complied with and objectives are being achieved.

10.1 In consultation with the NSW Police Force – Barrier police District, Broken Hill City Council will regularly monitor the operation of the CCTV Program and implementation of the Code of Practice.

10.2 Broken Hill City Council is responsible for ensuring that the CCTV Program is subject to an annual evaluation to identify whether its purposes are being complied with and whether objectives are being achieved.

10.3 Evaluation will be conducted independently and carried out according to independently established criteria.

10.4 Evaluation of the CCTV Program will include as a minimum:

10.4.1. Assessment of its impact upon crime;

10.4.2. Assessment of its impact on neighbouring areas;

10.4.3. Operation of the Code of Practice, Protocols and SOPs; and

10.4.4. Whether the purposes for which the Program was established still exist.

10.5 The results of the evaluation will be taken into account in the future functioning, management and operation of the Program.

11. MANAGEMENT OF THE CONTROL ROOM

Principle 9

Staff employed to work in the CCTV control room, whether they be operators or managers, will meet the highest standards of probity.

Principle 10

Access to the CCTV control room will be restricted to authorised staff and their managers as stated in the SOP and the control room will be protected from unauthorised access.

11.1 SOPs are developed for control room staff.

11.2 Broken Hill City Council will adopt:

- 11.2.1.** A procedure which clearly states that staff risk disciplinary proceedings (including dismissal) if they breach any of the provisions of the Code of Practice, SOP and Council's Code of Conduct;
 - 11.2.2.** A requirement of confidentiality which can be enforced during and after termination of employment; and
 - 11.2.3.** Systems of monitoring and supervision that ensure compliance with the Code of Practice, and SOP.
- 11.3** Procedures will be put in place to ensure that access to the control room is restricted to operating staff and their managers and that the control room is protected from unauthorised access, except as provided in Clause 8.4.
- 11.4** The circumstances in which police or other visitors are able to access the control room will be carefully controlled and outlined in the SOP.
- 11.5** Access to the operation of equipment will be limited to Broken Hill City Council staff with that responsibility, and NSW Police Force with the appropriate training in CCTV Operations the Code of Practice, and the Standard Operating Procedures.

12. CONTROL AND OPERATION OF

Principle 11

Information recorded will be relevant and not exceed that necessary to fulfil the purposes of the CCTV Program.

Principle 12

Information will be obtained fairly and in accordance with the privacy provisions of the Code of Practice.

- 12.1** The locations of CCTV cameras will be clearly apparent to the public.
- 12.2** All use of CCTV cameras will accord with the purposes of the CCTV Program as outlined in the Code of Practice, and SOP.
- 12.3** CCTV cameras will not be used to look into adjacent or nearby premises or buildings, unless it is explicitly for the purpose of following (in real time) participants in a crime, which originated in the public domain. Any misuse is to be treated as a breach of this code and subject to disciplinary action.
- 12.4** No sound will be recorded in public places.
- 12.5** 'Dummy' CCTV cameras will not be used.
- 12.6** Operators of camera equipment will act in accordance with the highest standards of probity.
- 12.7** All control room staff will be made aware that recordings are subject to routine audit and that they may be required to justify their interest in a particular member of the public or premises.

13. DATA, PHOTOGRAPHS AND RECORDED MATERIAL

Principle 13

The retention of, and access to photographs and recorded material will be only for the purposes provided by this Code of Practice. CCTV data will be retained for 31 days unless they are required in relation to the investigation of crime or for court proceedings. Recorded material no longer required will be disposed of using approved methods.

13.1 Access to and or use of recorded material and photographs will only take place:

- 13.1.1.** In compliance with the needs of NSW Police Force in the investigation and detection of a crime or suspected crime;
- 13.1.2.** For use in NSW Police Force intelligence gathering;
- 13.1.3.** For use following special or covert operations;
- 13.1.4.** For providing evidence in criminal and/or civil proceedings; and/or
- 13.1.5.** For identification of witnesses.

13.2 CCTV data will not be sold or used for commercial purposes or the provision of entertainment.

13.3 The showing of CCTV data to the public will be allowed only in accordance with the needs of the Police in connection with the investigation of crime or in any other circumstances provided by law. Any such action must be formally approved by the Police.

13.4 CCTV data shall not, under any circumstances, be used to publicise the existence or success of Broken Hill City Council's CCTV Program.

13.5 Appropriate security measures will be taken against unauthorised access to, alteration, disclosure, accidental loss or destruction of recorded material.

13.6 CCTV data will be treated according to defined procedures to ensure continuity of evidence.

13.7 All CCTV data may be subject to random inspection by internal audit.

14. CONTACT WITH POLICE

Principle 14

Contact related to the CCTV Program between Broken Hill City Council's staff and the Police, will be conducted strictly in accordance with the Code of Practice.

14.1 NSW Police Force will not be permitted to remove any recorded footage or photograph, operate recording equipment or have contact with any recorded footage or photograph at any time unless under the terms of this Code of Practice, the SOP or subject to the execution of a search warrant or other relevant legal process.

14.2 Any change in existing arrangements for Police contact with and use of the system will amount to a major change to the Code of Practice and must be agreed to in accordance with the Code of Practice before being implemented.

14.3 Any involvement in the CCTV Program by Police will be recorded by the Broken Hill City Council and will be subject to audit.

15. BREACHES OF THE CODE

Principle 15

The CCTV Program must address the interests of all who may be affected by it, and not be confined to the interests of Broken Hill City Council or the needs of the criminal justice system.

15.1 Prime responsibility for ensuring compliance with the Code of Practice lies with the Broken Hill City Council. This responsibility includes ensuring that breaches of the Code are investigated and remedied to the extent that breaches of the Code are within the ambit of Broken Hill City Council's power to remedy.

15.2 Complaints in relation to any aspect of the management or operation of the system may be made in writing to:

The General Manager
Broken Hill City Council
PO Box 448
BROKEN HILL NSW 2880
council@brokenhill.nsw.gov.au

The *Privacy and Personal Information Protection Act 1998* authorises Privacy NSW to receive and investigate complaints about alleged violations of privacy. Any member of the public is entitled to lodge a complaint with Privacy NSW. The contact details for Privacy NSW are as follows:

Information and Privacy Commission
GPO Box 7011
SYDNEY NSW 2001
Tel: 1800 472 679
Email: ipcinfo@ipc.nsw.gov.au

15.3 Broken Hill City Council will cooperate with the investigation of any complaint by Privacy NSW.

Exceptions

None

Legislation

None

16. CHANGES TO THE CODE OF PRACTICE

16.1 A major change to this Code can only be made after consultation with the NSW Police Force – Barrier Police District and upon agreement of Broken Hill City Council. Major changes must consider any requirements of the MoU.

16.2 A major change is any change that will have significant impact upon the operation of CCTV or this Code. An example of a major change is a change to the purpose of the system or proposal to install further permanent cameras.

16.3 Any major change to CCTV or to this Code will be included in the evaluation report detailed in part 8.2 of this code.

16.4 A minor change to this Code may be made with the agreement of the General Manager. Minor changes will be advised to Councillors.

16.5 A minor change is a change to the existing document that does not affect the meaning or intent of the CCTV Program or Code of Practice.

16.6 Amendments that are minor in nature include, but are not limited to, the following:

16.6.1. Changes to the format;

16.6.2. Changes to the title or name of a position, Directorate, Group, Team, document, publication, address (including URL), or legislation referred to in the existing document;

16.6.3. Correcting spelling or grammar;

16.6.4. Editing for language consistency; and or

16.6.5. Change to those responsible for implementing the document as a result of an organisational restructure.

17. IMPLEMENTATION

17.1 Roles and Responsibilities

The following Council officers are responsible for the implementation and the adherence to this policy:

- General Manager;
- Director Corporate;
- Manager Information Services.

17.2 Communication

This Policy will be communicated to the community and staff in accordance with Council's Policy, Procedure and Process Framework. Following adoption by Council the Policy will be made available on Council's website.

17.3 Associated Documents

The following documentation is to be read in conjunction with this policy.

- NSW Government Policy Statement and Guidelines for the Establishment and Implementation of Closed Circuit Television (CCTV) in public places;
- Standard Operating Procedures Closed Circuit Television (CCTV);
- Broken Hill City Council Code of Conduct;
- CCTV Confidentiality Agreement;
- CCTV Data Collection Register;
- Application to view/obtain a copy of CCTV data from Broken Hill City Council's public CCTV System by a member of the NSW Police Force.

18. REVIEW

Review of this policy will incorporate relevant legislation, documentation released from relevant state agencies and best practice guidelines.

The standard review period will be within each term of Council following the Local Government Elections, or as required to ensure that it meets legislation requirements and the needs of the community and Council. The responsible Council officer will be notified of the review requirements three months prior to the expiry of this policy.

The Director Corporate is responsible for the review of this policy.

19. LEGISLATIVE AND LEGAL FRAMEWORK

This policy is to be read in conjunction with the following:

- *Local Government Act 1993*
- *Government Information (Public Access) Act 2009*
- *Privacy and Personal Information Protection Act 1998*
- *NSW Government's Policy and Guidelines for the Establishment and Implementation of Closed Circuit Television (CCTV) in Public Places*
- *Workplace Surveillance Act 2005*
- *Security Industry Act 1997*
- *Surveillance Devices Act 2007*
- *State Records Act 1998*
- *Copyright Act 1968*
- *Australian Standards AS 4806.1-2006 Closed Circuit television (CCTV)*

This Code is supported by confidential Standard Operating Procedures for the effective management, operation and monitoring of the Program.

Council employees shall refrain from personal activities that would conflict with proper execution and management of Council's Code of Practice Closed Circuit Television System Program Policy. Council's Code of Conduct provides guidance for recognising and disclosing any conflicts of interest.

20. DEFINITIONS

Public place is defined from the Local Government Act 1993 and refers to public reserves, public bathing reserves, public baths or swimming pools, public roads, public bridges, public wharfs or public road-ferries with the addition of public transport and car parks.

Closed Circuit Television is defined as a television system that transmits images on a 'closed loop' basis, where images are only available to those directly connected to the transmission system. The transmission of closed circuit television images may involve the use of coaxial cable, fibre-optic cable, telephone lines, infra-red and radio transmission systems. A hand held or fixed video cassette recorder is not included in this definition unless it is connected to a transmission system.

CCTV Program – means the Code of Practice Closed Circuit Television System Program Policy, MoU and Standard Operating Procedures.

Control Room – means the facility within a specific site where CCTV data/footage is stored

Licensed – means holding an appropriate licence under the *Security Industry Act 1997* to undertake activities associated with CCTV

Memorandum of Understanding – means the agreement entered by Broken Hill City Council and the NSW Police Force – Barrier Police District.

Video surveillance means surveillance by a closed circuit television system for direct visual monitoring and/or recording of activities on premises or in a place