



POLICY NO	CP GOV 3113	
POLICY	Surveillance Devices	
RESPONSIBLE DIRECTORATE	Governance	
RESPONSIBLE OFFICER	Chief Executive Officer	
COUNCIL ADOPTION	Date:	Resolution No:
REVIEWED/MODIFIED	Date:	Resolution No:
	Date:	Resolution No:
REVIEW DUE	Date: March 2025	
LEGISLATION	<i>Surveillance Devices Act 1998 (WA)</i> <i>Local Government Act 1995 (WA)</i> <i>Freedom of Information Act 1992 (WA)</i> <i>State Records Act 2000 (WA)</i>	
POLICIES	CCTV Policy Manual	
OTHER DOCUMENTS	INF OPS – (Standard Operation Procedures)	

PURPOSE

This policy provides guidance to Authorised Officers and community members on the ethical, lawful and efficient use of optical and listening surveillance devices including body worn-cameras, dash cam devices, stationary surveillance cameras and the recorded data.

DEFINITIONS

Optical surveillance device means any instrument, apparatus, equipment, or other device capable of being used to record visually or observe a private activity. It does not include, for example, spectacles or contact lenses.

Listening surveillance device means any instrument, apparatus, equipment, or other device capable of being used to record, monitor or listen to a private conversation or words spoken to or by any person in private conversation. This does not include, for example a hearing aid.

Principal party means-

- a) in relation to a private conversation, a person by or to whom words are spoken in the course of the conversation; and
- b) in relation to a private activity, a person who takes part in the activity;

Private activity means any activity carried on in circumstances that may reasonably be taken to indicate that any of the parties to the activity desires it to be observed only by themselves, but does not include an activity carried on in any circumstances in which the parties to the activity ought reasonably to expect that the activity may be observed;

Authorised Officer an employee of the Shire who is authorised by the Chief Executive Officer or Council for the purposes of the administration and enforcement of any Act, Regulations or local laws which relate the functions and powers of the Shire.

POLICY STATEMENTS

PRINCIPLES

Authorised Officers will be fitted with optical and listening surveillance devices to assist in the administration and enforcement of Acts, regulations or Local Laws which relates the function and powers of the Shire.

The *Surveillance and Devices Act 1998* governs the use of audio and video footage that captures persons in the public realm, and forms the basis of this policy.

OBJECTIVES

The Objectives of this policy are to:

1. Improve the safety of Shire employees while undertaking their duties as Authorised Officers;
2. Discourage aggressive behaviour, both verbal and physical towards Shire's Authorised Officers;
3. Overtly obtain and secure evidence at the scene of incidents and crimes related to the Acts, Regulations and Local Laws which relate to the function and powers of the Shire;
4. Ensure the transparency and accountability of Authorised Officers in their interaction with members of the public;
5. Improve investigation process of incidents reported by an Authorised Officer or member of the public; and
6. Ensure that recorded data collected on optical and listening devices is handled in line with legislative and procedural requirements.

POLICIES AND PROCEDURES

The Shire will develop separate operating procedures to support the implementation of this policy, which will accommodate the auditing and management of optical and listening surveillance devices in line with the *Surveillance and Devices Act 1998*.

RECORDING

Authorised Officers must only activate camera recording, if deemed safe to do so in such incidents where:

1. There is reasonable concern for their safety or welfare, or the safety of another person;
2. Where there is a violent incident or an assessment indicates that that one will occur; and
3. To gather evidence in relation to a breach of an Act, Legislation, Regulation or Local Law.

Authorised Officers pursuant to exemptions to record a private activity listed in *Section 6 (2)* of the *Surveillance and Devices Act 1998* must obtain the express or implied consent of the principal parties to a record a private activity in accordance with to *Section 6 (3)*:

Surveillance and Devices Act 1998 .

Section 6 Regulation of use, installation and maintenance of optical surveillance devices

(1) Subject to subsections (2) and (3), a person shall not install, use, or maintain, or cause to be installed, used, or maintained, an optical surveillance device —

- (a) to record visually or observe a private activity to which that person is not a party; or
- (b) to record visually a private activity to which that person is a party.

Camera recording must not be activated except in accordance with the policy above.

If a recording has taken place which is not in accordance with this policy, the Authorised Officer must stop the recording as soon as practically possible and report the inadvertent recording to the Chief Executive Officer or their delegate. Recordings which are not in accordance with this policy will be authorised by the CEO or their delegate for deletion.

RETENTION AND STORAGE OF RECORDED DATA

Recorded data will be stored in a secure electronic location with restricted access. Recorded data will be protected from unauthorised viewing, copying, altering and disclosure.

Recorded data that is required (or potentially required) as evidence in any legal or regulatory process will be retained in accordance with the State Records Act 2000. This is currently 7 years.

Subject to the above, recorded data is to be permanently deleted after a period not exceeding 31 days from the date of capture.

CONFIDENTIALITY

Any information obtained by Authorised Officers and kept in recorded data will be kept confidential and handled in accordance with the Shire's privacy and legal obligations as well as the obligations under *Part 3 (9) of the Surveillance and Devices Act 1998*. In addition, Authorised Officer's will explicitly not identify any involved person or party with family, friends, or acquaintances and will not disclose any information to third parties, including the media without prior written approval of the principal party.

A member of the public has the right to apply for access to their personal information held by the Shire under the Freedom of Information Act 1992.

COMPLAINTS

Complaints regarding the use of optical and listening surveillance devices should be made to the Chief Executive Officer and will be handled in compliance with CP/CS-3280 Complaint Handling Policy.

APPLICATIONS

This policy applies to Authorised Officers who have been approved to utilise optical and listening devices in the course of performing their duties by the Chief Executive Officer.

EXPLANATORY NOTES

The *Surveillance Devices Act 1998 (WA)* regulates the use of surveillance devices in Western Australia. It also restricts the communication and publication of information obtained through the use of surveillance devices. Proceedings for an offence under this Act must be commenced within 2 years after the offence was committed.

RISK

Risk: Failure to manage a governance framework which transparently embraces good governance practices

Risk: Failure to develop appropriate, meaningful policies which enable the administration to perform in an effective and efficient way.

Control: Review policies and procedures in accordance with review schedule.