

3.30 Workplace Surveillance

POLICY TITLE: WORKPLACE SURVEILLANCE

FILE REF: SC67

EXPIRY DATE: SEPTEMBER 2025

1. PURPOSE

The Workplace Surveillance Act 2005 (Act) requires that employees are made aware of workplace surveillance undertaken by Lockhart Shire Council (Council).

This policy was developed to ensure Council meets its obligations under the Act by informing/ notifying employees of surveillance devices in the workplace and to provide a framework under which Council's Workplace Surveillance will be managed to ensure continued legislative compliance.

2. STATEMENT

Council recognises its obligations to ensure, where reasonably practicable, a safe and healthy workplace for its workers and others.

Technology advances now mean that most mobile devices have the functionality which includes that of camera, computer and tracking surveillance devices. Council in the course of its business uses these devices. Individual employees have similar capabilities with a Council supplied mobile device or their personal mobile device.

An employee is at work for the purposes of this policy when the employee is:

- At a Council workplace whether or not the employee is actually performing work at the time; or
- At any other place while performing work for Council; or
- Using Council vehicle, plant or equipment in the course of performing work for Council.

The use of certain surveillance devices by Council:

- Provides the potential to identify the geographical location of an employee or Council vehicle or plant and equipment;
- Provides the potential to deter vandalism, assault or other criminal activity and reduce the risks associated for employees and others and capture evidence of criminal activity;
- Allows for monitoring to manage the risks associated with non-compliance of Council's Code of Conduct and Work Health and Safety (WHS) requirements;
- Assists management to optimise performance, improve efficiency and improve customer service.

In accordance with the Act, this policy addresses the following types of surveillance in the workplace:

- Camera surveillance
- Computer surveillance
- Tracking surveillance.

3. DEFINITIONS

Camera Surveillance	Surveillance by means of a camera that monitors or records visual images of activities on premises or in any other place.
Computer Surveillance	Surveillance by means of software or other equipment that monitors or records the information input or output, or other use, of a computer (including but not limited to the sending and receiving of emails and the accessing of internet websites).
Employee	Has the same meaning as the Industrial Relations Act and includes a person performing voluntary work.
Tracking Surveillance	Surveillance by means of an electronic device the primary purpose of which is to monitor or record geographical information or movement.
Workplace	Means premises, or any other place where employees work or any part of such premises or place.

3.30 Workplace Surveillance (cont'd)

4. PROVISIONS

4.1. Camera Surveillance

Council may require designated areas to be under camera surveillance for operational, security and/or protection/ safety reasons.

Council's CCTV cameras which operate in public places, as defined under the Local Government Act (1993) are included in this policy. However, access to surveillance information captured by these CCTV cameras are subject to the Street Safety Cameras Policy and Public Access to Council Information Policy.

Where Council intends to introduce surveillance cameras in the workplace, employees working in the designated area or areas shall be advised in writing (which could be email) fourteen (14) days prior to its commencement in accordance with the Act. For any cameras in existence at the time of adoption of this policy, staff will be duly notified by being advised in writing of the adoption of this policy.

Council will put in place visible signs informing people who enter or leave a workplace or public place that camera surveillance is being carried out.

CCTV camera surveillance is continuous and ongoing.

Council may from time to time require employees who work in hazardous activities (for example in field regulatory roles) to have an on-person camera to reduce the risk associated with such activities. The requirement for these devices will be based on a risk assessment process. The employee will be notified of the installation and intent of these devices and the public will be advised. Surveillance is intermittent but ongoing.

4.2. Computer and mobile device surveillance

Computer resources are provided for business purposes related to an employee's duties. However reasonable personal use is permitted in accordance with the Computer, Internet, Email and Social Media Policy.

Use of Council's computers and associated systems is governed by the following policies which prescribe conditions of employee access to and use of Council's information technology facilities, services and systems:

- Computer, Internet, Email and Social Media Policy

Computer surveillance is undertaken for the general security of Council property and assets, the protection of Council related information and to ensure that Council's computer resources are not misused. Surveillance is carried out in conjunction with the abovementioned policies.

Council's corporate email system will automatically block some emails. This blocking is to ensure the integrity of the system and to reduce the risk from malware/viruses to Council's network. The email recipient will receive a notification that the email has been blocked.

Access logs are automatically created, and facilities exist to review the Internet addresses visited by each user. Access may be blocked to some sites that represent a threat to the corporate IT environment.

Computer surveillance is continuous and ongoing. Council will investigate alleged breaches of the law or Council policies by staff using Council IT equipment and systems and this may involve accessing the employee's computer and electronic records.

4.3. Tracking Devices

(i) Plant & Motor Vehicles

Increasingly Council's fleet is being fitted with an electronic tracking device such as a GPS (Global Positioning System) to collect, interpret and record/ store data including geographical location, movement and or plant/vehicle function or activity.

Council will install visible signs in all vehicles fitted with tracking devices to inform all vehicle users that surveillance tracking is being carried out.

This surveillance is continuous and ongoing.

At the time of drafting this policy current technology does not allow for the devices to be disabled outside of business hours and therefore until the technology advances to allow such devices to be disabled will not be installed in Council leaseback vehicles.

(ii) Security Alarm & Swipe Card Access Systems

For security purposes when a staff member arms or disarms an alarm system for a Council premise through entering security access code or using swipe card technology to access a facility the information is recorded.

Council may access and monitor staff use of the security alarm and swipe card access systems in the following ways:

- for the purpose of determining, as part of an investigation, whether there has been unacceptable access to premises by an employee constituting a breach of Council's policies or misconduct by the employee;
- for the purposes of legal requirement or other lawful investigation.

Security alarm and swipe card access systems surveillance is continuous and ongoing.

3.30 Workplace Surveillance (cont'd)

(iii) GPS enabled mobile devices

Council may from time to time require employees who work alone, in remote locations or in hazardous activities to use a tracking device (including but not limited to two way radio, man down, distress alarm) to reduce the risk associated with and to identify the location of the employee should an emergency response be required. The requirement for these devices will be based on a risk assessment process. The employee will be notified of the installation and intent of the tracking devices.

Surveillance is intermittent but ongoing.

4.4. Phone & fuel records

Records in relation to the use of Council provided mobile phones and fuel cards remain the property of Council. These records are monitored on an ongoing basis for unusual or high-volume activity, but Council may also access and review these records as part of a workplace investigation into alleged misuse of Council assets and/ or misconduct by an employee or another person.

4.5. Covert Surveillance

Council may apply to a Magistrate for an authority authorising covert surveillance of an employee only for the purpose of establishing whether or not one or more employees are involved in an unlawful activity while at work.

4.6. Prohibited Surveillance

Surveillance of an employee will not be carried out in any change room, toilet facility or shower facility at a workplace.

Surveillance of any employee will not be carried out when the employee is not at work. The exception is that surveillance records may be used as part of an investigation if it is to investigate an allegation of inappropriate use by the employee of equipment or resources provided by or at Council's expense.

4.7. Notification to Employees

Notification to employees will be in writing (which includes the use of email) for the purpose of complying with the Act.

Existing employees of Council shall be notified of the installation and intent of surveillance measures through written advice of the adoption of this policy (and of any significant changes to the policy in the future).

Workers yet to commence with Council shall be given notification of this Workplace Surveillance Policy as part of their offer of employment. By accepting employment with Council, the employee will be consenting to the conduct of surveillance in accordance with this policy, immediately upon the commencement of employment with Council.

4.8. Access, use and disclosure of Surveillance Records

Instances in which the use and disclosure of surveillance records might occur include:

- Identifying the location of Council property or employees while at work (if not possible by other means) for operational or safety purposes including during emergency and significant weather events;
- If there is an assault or suspected assault of a person;
- If theft of Council property is suspected;
- Criminal damage to Council equipment or facilities has occurred;
- Allegations of breaches of Council's Code of Conduct;
- Allegations of unacceptable conduct;
- A serious WHS incident;
- Verify contracted hours are worked;
- Where required under legislation such as to a law enforcement agency in connection with an environmental offence or alleged environmental offence, a criminal or alleged criminal offence or in connection with actual or potential legal proceedings
- As reasonably believed to be necessary to avert an imminent threat of serious violence or substantial damage to property.

Whilst information obtained from surveillance devices will not be used solely for this purpose, it may be used by Council as part of workplace investigation into an employee's alleged misconduct or breach of a Council policy that may result in disciplinary action in accordance with the disciplinary provisions within the Award and Council policies and procedures.

Information gathered from GPS installed in Council's vehicles will not be used as the primary source of information to initiate performance management or disciplinary actions. This information may however be used by Council as a secondary measure in workplace investigations in relation to managing performance, misconduct or breach of Council policy dealt with under the disciplinary provisions of the Award and Council's policies and procedures.

Council employees shall, at all times, exercise duty of confidentiality. Data shall only be released in compliance with the Act and other legislation and as prescribed by this policy. Non-compliance with duty of confidentiality requirements may render the employee liable to disciplinary action.

All documents created in relation to this policy will be kept in accordance with the State Records Act 1998 (NSW).

3.30 Workplace Surveillance (cont'd)

Persons, including members of the public can make application to access Council's data in accordance with the Government Information Public Access (GIPA) Act 2009 and the Privacy and Personal Information Protection Act (PPIPA) 1998.

5. IMPLEMENTATION

General Manager & Directors

- Responsible for ensuring effective implementation of this Policy within areas of responsibility
- Responsible for ensuring adequate controls are implemented and maintained to safeguard privacy
- Have and approve access to information collected by workplace surveillance systems
- Maintain and ensure the security and integrity of surveillance systems and information
- Coordinate and administer the installation, removal and replacement of tracking surveillance for plant and equipment in accordance with this policy and Vehicle and Plant GPS Tracking Policy.

Section Managers

- Responsible for making staff aware of this policy and their compliance
- Must comply with the requirements of this Policy
- Have access to information collected by workplace surveillance systems.

Human Resources

- Ensure compliance with the requirements of the Act with respect to notice of surveillance to employees
- Support and guide managers and supervisors to ensure compliance with the requirements of the Act

6. REVIEW

This Policy will be reviewed by the General Manager initially after the first twelve months of adoption and then every three years, or earlier should circumstances arise including legislative change to warrant revision.

*Adopted by Council – 19 September 2022
Refer minute No. 198/22*

*Adopted by Council – 15 July 2019
Refer minute No. 194/19*