

# Body Worn Camera Policy

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Responsible Officer	Manager Development & Governance	Date Approved:	24/01/2024
Review Officer:	Manager Development & Governance	Review Due:	20/03/2026
Author:	Manager Development & Governance	Commencement:	24/01/2024

## 1. PURPOSE

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To declare a principled approach to the implementation and operation of Body Worn Cameras (BWC) used by Mareeba Shire Council ("Council") officers and to ensure that any audio/video recording data captured is used lawfully.

## 2. SCOPE

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This policy applies across Council to all persons employed or otherwise engaged by Council who may use BWC devices and/or the Digital Evidence Management Software (DEMS) and to the subsequent management of any recordings (data) captured by BWC devices.

This policy does not apply to the administration and operation of:

- fixed CCTV systems;
- Covert camera surveillance devices deployed for investigative purposes, e.g., gathering of evidence for enforcement of a Local Law.

## 3. POLICY STATEMENT

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The purpose for use of BWC is to assist in protecting the safety of Council employees and the public, discourage aggressive and abusive behaviour and capture evidence where required to investigate complaints.

The policy sets out the purpose for use of BWC, what information will be recorded, under what circumstances, who will have access to recorded information and how this information will be stored and disposed of.

Council may at its sole discretion, on a case by case basis, alter the manner in which this policy or any associated procedure is implemented to ensure it suits the particular circumstances of the case.

## 4. PRINCIPLES

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Authorised persons (Council officers) who, as part of their normal duties, are responsible for engaging in compliance and enforcement activities, may utilise BWC. The use of these BWC devices in the context of work duties is intended to:

**Human Rights Compatibility Statement**

This policy has been drafted in alignment with obligations under s 58 of the *Human Rights Act 2019* (Qld).

- Assist in the lawful collection of evidence for actual or suspected breaches of legislation, including Council local laws.
- Maintain and improve community safety.
- Mitigate identified risks to the health, safety and welfare of Council officers in the execution of their duties.
- Provide a record of the interaction between an officer and a potential complainant in situations that may result in an allegation of inappropriate behaviour or other complaint.
- Assist in the investigation of allegations of inappropriate conduct by officers.

The BWC will not be used as a tool to assist in the ad-hoc monitoring of Council employees.

## **5. RESPONSIBILITIES**

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### **5.1 TRAINING**

All Council officers required to operate a BWC will receive training in the use of BWC including:

- Practical use of equipment.
- Operational guidance, e.g. when to commence and cease recording.
- Legal implications of BWC use.

### **5.2 EQUIPMENT SECURITY**

BWC devices will be held at a secure location when not in use and will be issued to individual officers, who will be responsible for the correct operation and security of the device whilst in their possession.

The loss or theft of any BWC is to be immediately reported to the relevant responsible Council officer so that an investigation can be undertaken to minimise loss, particularly the loss of any recordings containing Personal Information remaining on the BWC device.

### **5.3 USE PROTOCOLS**

BWC devices will only be used by on-duty officers wearing Council uniform or clearly displaying formal Council identification.

BWC devices will be used in an overt manner and worn on a prominent location on the officer's body, uniform, or clothing, and in a manner that maximises the camera's ability to capture video footage of the officer's activities.

Council officers may use a BWC while conducting duties only in so far as is reasonable and necessary under the circumstances in order to capture evidence relevant to their duties as applies to the circumstance or incident at hand. Use of a BWC device should seek to minimise collateral intrusion to persons not involved in the incident at hand.

Where reasonably practicable and where it would not potentially exacerbate the situation, raise tensions and adversely impact the gathering of evidence, officers will give notice to any person (or group of persons) likely to be captured in the field of view that the BWC is switched on and actively recording. Where the decision is made not to give notice, the officer may be required to justify that decision.

BWC recording should continue uninterrupted from the commencement of an incident until the conclusion of that incident. Where possible, the officer should continue recording for a short period after any incident to clearly demonstrate that the incident has concluded. The present circumstances of a given incident may make it necessary for the officer to consider the necessity for continuing to record throughout the entirety of the incident.

If questioned by any person being captured by a BWC, the officer must confirm to the enquirer that they are subject to being captured by the recording and be prepared to answer questions as to the security of the recorded data.

#### **5.4 DATA MANAGEMENT, USE AND DISCLOSURE**

Recordings (data) must not be deleted from the BWC by the officer in the field. All BWC recordings captured must be retained for assessment and classification. BWC recordings will be downloaded from the BWC for storage on Council's DEMS as soon as practicable upon return from the field, and subsequently deleted from the relevant BWC.

All recordings will initially be classified as 'non-evidential' and stored for a period of 180 days, before being permanently deleted. In doing so Council will observe established authoritative guidelines to reduce the personal information holdings it maintains to in turn reduce the likelihood of misuse, loss and unauthorised access, modification or disclosure.<sup>1</sup> If, at any time during the initial 180-day period, a recording is used as part of any internal or external investigation process or relates to the issuance of any form of compliance documentation, the relevant recording will be re-classified as per the Queensland State Archives Retention and Disposal Schedules and subsequently managed in accordance with Council's *Record Management Policy*.

BWC recordings will, upon request, be made accessible as soon as practicable to Queensland Police Service (QPS) and other law enforcement agencies where it is deemed 'reasonably necessary' for a law enforcement activity. Council response to requests from external law enforcement agencies seeking access to recordings will have regard to a properly documented process for release.<sup>2</sup> In such circumstances, the relevant released recording will be re-classified accordingly.

Any person may request access to BWC footage under relevant information access legislation.<sup>3</sup>

#### **5.5 AUTHORISED PERSONS**

The following Council staff are authorised to administer the use and operation of BWC devices, and subsequently manage the records stored in Council's DEMS, including the delegation of applicable permissions to relevant operational personnel:

- Manager Development and Governance
- Manager Information Systems

### **6. DEFINITIONS**

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**Authorised Person** – means a person who:

- 1) Is an employee of Council; and

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<sup>1</sup> See generally Office of the Information Commissioner, 'Camera Surveillance and Privacy' (1 November 2019) <Camera Surveillance and Privacy | Office of the Information Commissioner Queensland (oic.qld.gov.au)>.

<sup>2</sup> See *Closed-Circuit Television (CCTV) System Procedure* s 3.2.1.

<sup>3</sup> See *Right to Information Act 2009* (Qld) s 3, 23. See also *Information Privacy Act 2009* (Qld) ss 3(1)(b), 40.

- 2) Has the competencies that the chief executive officer considers are necessary to perform the duties and responsibilities that are required under this policy.<sup>4</sup>

**Council** – means the Mareeba Shire Council including all elected representatives, employees, contractors, volunteers, a Standing or Joint Standing Committee, committee members and any entity under direct Council ownership, management, sponsorship, or financial control.

**Incident** – means an event:

- of engagement with a member of the public during which, in the opinion of the officer, there exists a future potential for matters to become, confrontational.
- during which an officer is presently being approached by a member of the public in a manner perceived by the officer as aggressive, threatening, or confrontational.
- during which an officer is witnessing behaviour that they believe constitutes an offence as prescribed under Council's Local Laws or other applicable legislation.
- during which an officer feels they may be required to further substantiate their actions or decisions, or the manner of interaction with a member of the public in a future subsequent investigation.

**Officer** – means an employee of Council.

**Personal Information** – means information about an individual whose identity is apparent or can be reasonably ascertained from the information. Personal Information may include an audio and/or video recording.<sup>5</sup>

**Recording** – means image and audio data captured by a BWC device.

**Note:** it is intended that words importing the singular include the plural and vice versa, and the masculine gender includes the feminine or neuter gender and vice versa and words importing persons includes corporations and vice versa.

## 7. RELATED DOCUMENTS AND REFERENCES

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- *Closed-Circuit Television (CCTV) System Procedure* (MSC)
- *Code of Conduct* (MSC)
- *Information Systems Access Policy* (MSC)
- *Information Privacy Act 2009* (Qld)
- *Public Records Act 2002* (Qld)
- *Records Management Policy* (MSC)
- *Right to Information Act 2009* (Qld)

## 8. REVIEW

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It is the responsibility of the Manager Development & Governance to monitor the adequacy of this policy and implement and approve appropriate changes. This policy will be formally reviewed every four (4) years or as required by Council.

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<sup>4</sup> See also *Local Government Act 2009* (Qld) s 202.

<sup>5</sup> See *Information Privacy Act 2009* (Qld) s 12.