

MEMORANDUM OF UNDERSTANDING:

OPERATION AND CONTROL OF THE COMMUNITY SAFETY CAMERA SYSTEM AND ITS INFORMATION.

between the

Hutt City Council, Upper Hutt City Council, Hutt Safe City

and the

New Zealand Police



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This memorandum of understanding is made in February 2017.

Between Hutt City Council, Upper Hutt City Council, Hutt Safe City

And The Commissioner of the New Zealand Police

1. Introduction

- a) The Hutt City Council (HCC) is established under the Local Government Act 2002 (“**Council**”)
- b) The Upper Hutt City Council (UHCC) is established under the Local Government Act 2002 (“**Council**”)
- c) The New Zealand Police is established under and regulated by the Policing Act 2008. (“**Police**”)
- d) Hutt Safe City Trust (“HSC”) being the organisation contracted to maintain the administrative reporting requirements of the CCTV system.
- e) The parties currently work together. They wish to formalise this relationship and specify the terms and conditions under which this will occur.

2. Interpretation

For this memorandum of understanding:

Areas of common interest

Means those matters where each party contributes to a shared outcome or has a shared role or interest. This includes international agreements and cooperation and coordination across the wider government sector.

Management Representatives

Means, within the Hutt City Council the, City Safety Manager. Within Upper Hutt City Council the Director Community Services. Within the Hutt Safe City Charitable Trust, their Manager and Camera Coordinator. Within the New Zealand Police, Community Policing Manager and Camera Liaison Officer Hutt.

“CSS”

A camera surveillance system, namely any network of one or more video cameras connected to a recording system or monitor, by whatever technical means such system operates (eg, digital or analogue).

“Council Community Safety CSS”

Council Owned CSS, operated for or by members of Council. Situated in pre-defined locations for the purposes of reducing, detecting and investigating incidences of crime, anti-social activity and traffic safety; and which are monitored from Lower Hutt Police Station.

“CSS Access”

Access of Police to Council Community Safety CSS, including CSS Information, by the means set out in clause (5.2) of this MOU.

“CSS Information”

Any visual records, data or other information sourced from Council Community Safety CSS, in any format or medium, including derivative information like written reports and data.

“CSS Recordings”

Any visual and/or audio recording, in any format or medium, captured from Council Community Safety CSS.

“CSS Stills”

Any photographs or video still captured from Council Community Safety CSS.

“Public Places”

Any place, whether publicly or privately owned, accessible to the public generally (such as transport infrastructure and facilities, footpaths, public parks, town centres, public car parks) or during opening hours (such as malls, shops, community, sport and recreational facilities, educational institutions).

3. Purpose

The purpose of this Memorandum of Understanding (MOU) is to establish and promote a collaborative relationship between the HCC, UHCC, HSC and Police that also fulfils the obligations of HCC and UHCC of the Privacy Act 1993 as collectors of personal information collected by Council Community CSS and cover the following:

4. Values

The operation of the Council Community Safety CSS is guided by the following HCC, UHCC, HSC and Police values and beliefs:

- (a) CSS in public spaces is an important tool in promoting a Safe Hutt Valley.
- (b) The use of CSS for community safety and crime detection/investigation purposes must be balanced against inappropriate, intrusive or unlawful use of CSS.

- (c) Appropriate safeguards, including for individual privacy, are necessary for effective establishment and use of CSS required in the establishment and use of CSS.
- (d) There is mutual benefit in the Councils and Police working collaboratively to evaluate and improve existing and new CSS systems, and facilitating Police access to Council Community CSS through compatible technical platforms.
- (e) The relationship between Councils and Police on matters of community safety is a "strategic relationship" of high importance.

5. Outcomes

The desired outcomes of this MOU are to:

- (a) Enhance community safety outcomes by ensuring that there are CCTV cameras operating in areas identified by police and council as priority areas in regards to safety and the perception of safety.
- (b) Enhancing community safety outcomes by ensuring Police have effective and timely access to the Council Community Safety CSS.
- (c) Ensuring Police operational staff are aware of the Council Community Safety CSS areas of coverage and capabilities, resulting in Police being proactive in seeking access to Council Community Safety CSS.
- (d) Ensuring the effectiveness of the Council Community Safety CSS is evaluated and measured following feedback from Police on:
 - (i) The effectiveness of the system to provide useful, timely information;
 - (ii) The displacement of criminal activity whether this is by location or time of day; and
 - (iii) The successful identification of offenders.
- (e) Ensure Police operational staff are aware of and comply with procedures implemented to minimise the risk of the Councils being in breach of the Privacy Act and becoming liable for penalties under that Act

6 Effect of this Memorandum of Understanding

This memorandum of understanding confirms;

- a) The relationship between the parties is based on a spirit of goodwill and co-operation, and
- b) The parties will work together to achieve the agreed outcome(s) outlined in section 5 of this MoU.
- c) The parties' representatives are primarily responsible for ensuring that the intent of this memorandum of understanding is followed.

7. Adding Protocols to this MoU

The parties agree that from time to time they will develop protocols relating to specific procedures and activities involving the parties. These will be attached to the memorandum of understanding as schedules. New agreements or protocols may supersede existing ones. All current agreements or protocols will be attached as schedules.

- a) Reviews, modifications or terminations of existing schedules may be undertaken by the mutual agreement of the signatories to the Schedule.
- a) Schedules will be reviewed:
 - i. initially, one year after signing and then every two years, or;
 - ii. as agreed, or;
 - iii. in line with the reviews of this memorandum of understanding.
- b) All reviews, modifications or terminations required by law will be undertaken promptly and the MOU will be amended accordingly.

8. Good Faith

All three parties will act in good faith and using their best endeavours with respect to the terms of this MOU including prompt and fair communication on material issues.

9. Resource Constraints

The parties acknowledge that performance of the Council Community Safety CSS is subject to the funding and asset constraints of the parties, and this MoU does not commit any party to additional expenditure.

10. Limitation of this MOU to Defined Systems.

This MoU only applies to the Council Community Safety CSS in Public Places (as defined in Section 2 of this document). Other CSS owned by (or operated for) Council, Police or HSC are not included in this MoU.

11. Previous Agreements

This MoU supersedes all previous memoranda of understanding between the Hutt City Council, Upper Hutt City Council and Police established with regard to this particular Council Community Safety CSS.

12. Council

Councils Agree:

- (a) Councils are responsible for maintaining cameras to a good working order and will carry out any repairs necessary to ensure they stay in good working condition.
- (b) Council will erect and maintain appropriate signage in the vicinity of the Community Safety CSS cameras publicising their presence in accordance with the Privacy Act 1993, the Privacy Commissioners CCTV Guidelines, and any other legal requirements.
- (c) Councils have responsibility for all aspects of the collection of Council Community Safety CSS information, and its storage.
- (d) Councils are responsible for responding to all requests for information recorded by the CCTV system.
- (e) Councils will conduct annual reviews of the Council Community Safety CSS to ensure its lawful operation, and assess whether operational criteria are being met. The Police will provide the Councils with information necessary for the Councils to conduct reviews within 20 working days of receiving a request for information
- (f) That all due care will be taken to comply with all legal and ethical requirements, the Surveillance Principles as set out in Schedule 1, and any other clauses of this MoU. To achieve this, Police will comply with the Council in respect of the appropriate safe guards, parameters, and procedures the Councils put in place to ensure compliance and accountability.

13. Police

Police agree:

- (a) Police will provide sufficient space to house the Council Community Safety CSS monitoring station at the Lower Hutt Police Station with consideration given to any possible future expansion, connectivity needs, and operator health and safety.
- (b) Police will conduct the vetting process of CCTV volunteers.
- (c) Police will ensure that the CCTV volunteers maintain the standards as set out in the New Zealand Police Code of Conduct, and conduct any necessary disciplinary investigations/actions.
- (d) Police will provide a nominated Community Safety CSS Liaison Officer.
- (e) Ensure members of the public contacting them to obtain CSS information or recordings will be directed to the relevant Council to make a request.

14. H.S.C

HSC agree:

- (a) HSC will manage CCTV volunteer recruitment and rostering.
- (b) HSC will collate CCTV data and present this in a report each month, or as required, to the Community Safety CSS Management Group.
- (c) HSC will meet any other CCTV requirements outlined in their current Service Contract with HCC Council.
- (d) HSC will maintain the asset register for equipment housed within the Lower Hutt Police station.

15. Management

Management of the parties' relationship under this MoU shall be between the "Management Representatives" notified by each party to the others from time to time.

- a) Management matters shall include:
 - i. Any day to day technical matters that cannot be resolved by Technical Representatives;
 - ii. Any disputes or contentious matters;
 - iii. Public relations and communications;
 - iv. Performance review and reporting (through a Management Group comprising all the Management Representatives); and
 - v. Any amendments or variations to this MoU.
 - vi. The setting of camera fields of view and automated patrol tours.
- b) This does not limit the rights of each party to internally monitor, supervise and/or direct the actions of its own Technical Representatives.

16. Public Relations

No public statements (including responses to press queries) concerning the Council Community Safety CSS Will be made without both Councils and Police consent

17. O.I.A & L.G.O.I.M.A

In regards to the Official Information Act 1982 or Local Government Official Information and Meetings Act 1987;

- a) The parties must promptly notify each other of any requests by third parties in respect of this MOU, Council Community Safety CSS or CSS Information generally. The parties shall cooperate when handling such requests.
- b) Requests for specific CSS Information (that is not part of a Police enquiry, or relevant to police interests) by a member of the public shall be actioned by Council pursuant to the Local Government Official Information and Meetings Act 1987, the Official Information Act 1982, and Privacy Act 1993. All parties to this MoU must be made aware of the request.

18. C.S.S Access

It is agreed that in relation to accessing the physical hardware, information, and control of the C.S.S;

- a) Councils will not charge Police for CSS Access under this MOU.
- b) Police may access the Council Community Safety CSS in three ways ("CSS Access"):
 - i. Technical Download:
Request for specific CSS Recordings or CSS Stills from particular times and locations, in accordance with request procedures.
 - ii. Live Feed:
Real-time access to a CSS Camera, but without operative control of the CSS Camera.
 - iii. Direct Control:
Taking direct real-time control of a specific CSS camera, in accordance with part 4 of Schedule 1 of this MoU.

19. Access Arrangements

Technical arrangements and protocols for CSS Access shall be made between Police, HSC and Council as applicable (see Schedule 2).

- (a) Direct Control shall only be used in accordance with the technical arrangements and protocols set by the management group as per schedule 2. Council shall still have access to real-time live feeds from the CSS.
- (b) Police must submit a "Request for Technical Download" in the form specified for any request for a Technical Download as per schedule 2.

- (c) If in the circumstances, a delay caused by the application process could jeopardise the immediate safety of a person, or risk the loss of evidence in a police investigation, police may make CSS recordings or CSS Stills themselves (e.g., from Live Feeds, as opposed to requesting a Technical Download). They will report this as soon as possible to Council by including all the information included in an access request and details of the actual CSS recordings and CSS stills made. In the event that an authorised operator or a trained management representative is available to carry out Technical Downloads, Police may call out the contracted maintenance provider to perform the Technical Download. The callout will be at the cost of the Police
- (d) Police and HSC shall ensure all technical access details and passwords are kept securely and strictly confidential to the Councils.
- (e) In the event the relevant Council refuses to grant access or notifies the Police when access was not applied for under paragraph c that access was in breach of the Privacy Act 1993 the Police will apply for the relevant warrant under the Search and Surveillance Act 2012 before using the information as evidence in any criminal or civil proceedings.

20. Observation Principles

Schedule 1 sets out the "CSS Principles" which are the basis of this MoU.

- (a) The principles set out the expectations for how all parties can use the Community Safety CSS information and exercise Community Safety CSS Access rights.
- (b) All parties shall act in good faith and use their best endeavours to comply with the principles according to the spirit of this agreement.
- (c) Material exceptions and deviations to the principles should be reported as part of a review process by the management group at the end of the upgrade project.

21. Reporting and Review

The management group will;

- a) Hold quarterly meetings (or at agreed intervals necessitated by operational needs) to review CSS reports and evaluate any issues arising. This process of evaluation will:
 - i. assess achievement and progress towards the purpose, values and outcomes.
 - ii. pursue a shared, strategic approach between both Councils and Police in pursuit of safety and crime prevention outcomes; and
 - iii. deal with specific reporting and review matters identified in this MoU.

- b) Will be responsible for reporting on the performance and outcomes of this MoU to the governing body of Council through those council officers on the management group, and as relevant to their respective interests and delegated decision-making responsibilities under the Local Government Act 2002.

22. Dispute Resolutions

From time to time disputes may arise. To address this in a timely and effective manner;

- a) The parties shall endeavour promptly to resolve any disputes under this MoU at a management group level, with further escalation within each party's organisation as required. The parties shall handle dispute resolution discreetly wherever possible, without public comment.
- b) The parties agree to do all things reasonably required to give effect to this MoU according to its true intent and spirit.

23. Variations

This MOU can only be varied by a written agreement signed on behalf of all parties by authorised persons, and such variations must clearly state they are variations of this MoU.

24. Conditions

- a) Nothing in this memorandum of understanding shall make either party liable for the actions of the other or constitute any legal relationship between the parties.
- b) Where there are changes to Government policy or legislation which affect the purpose and functions of this memorandum of understanding, each party agrees to inform the other of those changes at the earliest possible time thereafter and agrees to meet to re-negotiate if necessary and permitted by the legislative change any aspects of this memorandum of understanding.

25. Management Representatives

The management representatives specified addresses, facsimile numbers, email and party representatives are:

<p>New Zealand Police Youth and Community Manager Hutt Valley Police 19-23 Kings Crescent Lower Hutt. Telephone: 04 560 2600</p>	<p>Hutt City Council Hutt City Council City Safety Manager Hutt City Council 531 High Street Lower Hutt Telephone: 027 2295914</p>
<p>New Zealand Police Sergeant in Charge Community: North 19-23 Kings Crescent Lower Hutt. Telephone: 04 560 2600</p>	<p>Upper Hutt City Council Director Community Services 838-842 Fergusson Drive Upper Hutt Telephone 021 807 0818</p>
<p>New Zealand Police CCTV Coordinator 19-23 Kings Crescent Lower Hutt Coord.huttcameras@outlook.com</p>	<p>Hutt Safe City Trust Manager Hutt Safe City 19-23 Kings Crescent Lower Hutt Telephone: 0272233373 manager@huttcity.co.nz</p>

SCHEDULE 1 – SURVEILLANCE PRINCIPLES

These Surveillance Principles set out the basis of the parties' mutual expectations for access and use of CSS Information by all parties.

1. Legal compliance

The CSS Access and CSS Information is only to be used for Police law enforcement purposes, having regard to the spirit and intent of the values and objectives set out in clause 4,5 and 22 of this MoU.

All parties should comply with the Privacy Act 1993 and the New Zealand Bill of Rights Act 1990, the Privacy Commissioner's "Privacy and CCTV Guidelines" (as amended and replaced from time to time), and all other relevant laws and codes, as applicable to use of CSS by law enforcement and other agencies.

2. Police rules to apply

Without limiting the other terms of the current MoU and these Surveillance Principles, Police's use of CSS Access and CSS Information shall be in accordance with Police's own rules and code of conduct for CSS (as if it were the Police's own CSS) including the requirements of the Search and Surveillance Act 2012

3. Live Feeds

Live feeds should only be used in respect of CSS cameras that are trained on:

- Specific safety hot-spots (as agreed by the management representatives and their Technical Representatives);
- Traffic management areas (as agreed by the management representatives and their Technical Representatives) and
- Real-time matters being investigated, or responded to, by Police (eg, a crowd control issues, public disturbance, serious violence etc).

4. Direct Control

Direct Control of CSS cameras should only be used if justifiable required for locating specific offences in locations identified as areas of concern, dealing with critical incidents, real-time public safety issues, real-time crime investigations and activities, and real-time traffic, accident and crash prevention activities.

5. Specific enquiries

CSS Access and CSS Information should not be used for surveillance or monitoring of specific individuals (whether or not identifiable by name, and whether not facilitated by supporting technology) except in respect of specific criminal acts, or organised crime, or other reasonably suspected criminal behaviour (including terrorism) on the basis of such evidence or reasonable suspicion of criminal offending. CSS access and CSS information can always be used if the police hold a valid warrant to do so.

6. Records and audit

Police should not keep CSS Recordings longer than necessary for evidential purposes relating to law enforcement and allow them to be accessed only by staff that need access for the purposes of their work.

Police will ensure proper internal audit records are kept relating to use of CSS Access and CSS Information.

7. Other agencies

- a) Police will not provide CSS Access or CSS Information to any other agencies in New Zealand or abroad except where that complies in all respects with the terms of these Surveillance Principles and NZ law.
- b) If the Police receive a request from other agencies it will advise the relevant Council of the details of the request unless to do so would prejudice the maintenance of the law, in such cases the police will provide the Council the details that will not prejudice the maintenance of the law.
- c) If the request is not within the ambit of paragraph a) the police will transfer the request to the relevant Council

SCHEDULE 2 – TECHNICAL ARRANGEMENTS AND PROTOCOLS

- All viewing should be for the stated reasons in Section 1 of this MOU and follow the principles as set out in Schedule 1 of this MOU.
- Live Feed: Viewing of the live feeds should be restricted as much as possible. Anyone viewing the live feed should have particular reason for doing so. Anyone found to be viewing the live feed for any non-specific reason, should be questioned, and appropriate action taken.
- Direct Control: Only performed by trained CCTV operators, sworn police with appropriate training, the Hutt City Council City Safety Manager, and Council's authorised technical representatives.
- Authorising Technical Downloads: Technical Download's to be performed only after receipt of written approval from either; Hutt City Council's City Safety Manager, Hutt City Council's Privacy Officer, either Council's in-house solicitors, Hutt City Council's General Manager - Community Services, Upper Hutt City Councils Director of Community Services or either Council's Chief Executive Officers.
- Performing Technical Downloads: Are only to be undertaken by Council's City Safety Manager, Hutt Valley Area Police CCTV Liaison Officer, Fully trained HSC Trust Camera Operators, and in urgent matters where none of the above can be contacted, a request to the CSS Service contractor can be made pursuant to Paragraph 19 (c) of the MoU.
- An operator log should be maintained. This log should contain:
 - Time of operator log on/off.
 - Technical download requests made and by whom
 - Incidents observed and how resolved.
 - Unauthorised viewing and by whom. (This must also be reported to the Council's City Safety Manager and/or the Police CCTV Liaison Officer.
- Setting any cameras field of view, changing camera automated tours, and the use of analytics can only be authorised by the management representatives after a fully documented meeting and with all parties in agreement.