

Policy on the use of CCTV in Foster Homes

Introduction

The Data Protection Act has significant implications for anyone already using or thinking of installing a Closed Circuit Television (CCTV) System and it is important that carers discuss the available guidance with their Placement Manager before arranging to have CCTV installed. The regulations and guidance relating to CCTV are covered by the General Data Protection Regulations (GDPR) and the Data Protection Act 2018 (DPA18). This legislation is regulated by the Information Commissioner's Office (ICO) and carers must ensure that any CCTV system is operated within regulatory guidelines.

Guidance on the use of CCTV

The usual reason for installing a CCTV system is to protect property or prevent anti-social behaviour but, when considering if it is appropriate, the following should be considered:

- Is a CCTV system necessary, is it a proportionate response to a perceived or actual threat
- Is there an alternative, e.g. fitting more security locks or a motion sensor to trigger lights
- Have the police been contacted to carry out a crime prevention check and give advice on alternative or additional security features
- Where will the camera be focussed, is it to be used inside and/or outside the home
- Will the system be running all the time, and will it include an audio record
- Will the planned use of CCTV affect other people, how will any recordings be kept, by whom, and for how long

The Regulations regarding CCTV

The positioning of cameras is crucial and there should be an open discussion between those who own and run the system and those who are going to be affected e.g. neighbours or visitors to the home. The camera should only record within the domestic boundary, i.e. the perimeter of the property. If a camera is focused to record beyond this area, the householder has a responsibility to ensure the system is installed and operated correctly and that they have a good understanding of the legislation and up to date guidance relevant to CCTV.

Recordings taken outside your property

It is advisable for the data controller to have a good understanding of CCTV regulations in case anyone wants to carry out their rights in relation to data protection or make a subject access request (SARS). The CCTV system must not be used for any purpose other than intended and before installing the system, it is advisable to let neighbours know what you are doing and why. There should also be a visible notice on the property that clearly states CCTV is being used. A system that also records audio could be seen by some as particularly intrusive and the person responsible for the operation of the CCTV should consider whether it is really needed and if not, should it be disabled.

If you are recording images outside of your property boundary, intentionally or otherwise, the use of the system comes under the data protection laws. This means that the person responsible for the system is a 'data controller'. This does not necessarily mean that anyone is breaking the law, but they must show they are complying with the regulatory guidance. There is an expectation that an operator will uphold

the rights of those affected by the system. However, if you are taking and storing images from beyond your boundary you will need to write down the reasons why you feel this is necessary, as it is an intrusion of people's privacy.

Recordings taken inside your property

CCTV should not be used to monitor the behaviour or actions of children or young people in the home. The use of CCTV in a foster home must be considered necessary, proportionate and known to all those living in, or coming to the home. Hertfordshire Fostering Service recognises that some families install CCTV to monitor the home while they are away from the home, for security reasons or to monitor animals in the home.

Hertfordshire Fostering Service must be made aware of any CCTV system being installed or in place and the reasons for this being installed should be discussed before it is installed or during the initial fostering assessment process. It must also be agreed by the Local Authority responsible for any child or young person placed. In those cases where it is used, the storing and retention of records, e.g. how long records are kept and who can have access to them, should be incorporated into the Health and Safety Checks and also Safer Caring Policy.

CCTV should not be sited in a bedroom, bathroom or toilet and anyone living in the home, or responsible for a child placed with the carer, should be shown where the cameras are sited. At no time should CCTV be an alternative to carers providing supervision or oversight of children and young people.

Baby monitors are considered to be a listening device unless they are used to check a young baby's welfare when an adult is not in the same room, for example, if a baby is sleeping during the day. It is acceptable for a mobile phone to be used as a baby monitor when a baby is sleeping, but it must not be used to monitor other people's activities. Baby monitors should not be used as a device for supervising older children.

When using CCTV there should be a sign stating that no one other than the operator and those to whom they give consent, can use the system, and that they must have good reason to do so. In such cases the person who has been given consent to use the system must sign a written agreement stating that they will not share or upload footage of anyone who can be identified.

Data Protection Laws

If, during the process of recording, someone's privacy is infringed, the person responsible for the CCTV system must respond to any subject access request (SARS) within 1 month of being contacted, giving the complainant a copy of the relevant data.

Footage should be deleted if requested unless there is an ongoing legal dispute for which the recording may be used. The person who made the SARS request should be advised that they can challenge this in court or contact the ICO.

The CCTV operator should regularly consider whether the original reasons for recording remain valid. Failure to follow regulations can result in an 'enforcement action' by the ICO, which could entail paying a fine. Contravention of the regulations may also expose data controllers to legal action from those whose images were recorded without their consent.

It is no longer necessary to register with the ICO or pay a fee, but it is essential that the data controller keeps a record of how and why images are being kept, for how long and by whom. These records must be made available to the ICO if requested.

Changing the use of CCTV

Any request for alternative or additional use of CCTV, for example, to safeguard children who are known to be vulnerable, should be brought to the attention of the Fostering Team Manager. This should be only requested following the completion of risk assessments which have highlighted significant concerns relating to the safeguarding of a child or children in the household. This should also have been discussed with the Local Authority responsible for the child to gain their views prior to any request being made. Should such a request be agreed, the carer's Safer Caring Policy and other relevant documents need to be updated at the earliest opportunity. Any request for a change of use should be regularly reviewed.

For more information:

- Domestic CCTV: using CCTV systems on your property (GOV. UK. 2015)
- Surveillance camera code of practice (2013) – information on recording images 'beyond the confines of the property'
- The Information Commissioner's Office (ICO) also publishes guidance, e.g. 'guidance on the use of domestic CCTV and 'guidance for people being filmed by domestic CCTV' (<https://ico.org.uk>)

Relevant legislation:

National Minimum Standards for Fostering Services (2011)

(26.4) Information about individual children is kept confidential and only shared with those who have a legitimate and current need to know the information, and to those parts of a child's record or other information that they need to know.'

General Data Protection (GDPR) (<https://gov.org.uk>)

Data Protection Act 2018 (DPA 18)

**Connected Policies or guidance Name
of policy / Guidance**

Foster Carers Handbook