

## Domestic CCTV Surveillance Procedure (Residents)

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### Summary

The Data Protection Act 2018 (DPA18) and the UK General Data Protection Regulation (UKGDPR) provide individuals with the right to know what personal and sensitive (special category) information is held about them and how it is processed and protected. It also sets out requirements for organisations to adhere to when collecting and processing personal data.

This extends to personal data captured on CCTV. CCTV and other surveillance systems have a legitimate role to play in helping to maintain a safe and secure environment for all our employees, residents, carers, and visitors.

Housing 21 recognise that residents may wish to install their own CCTV surveillance equipment, however this may raise concerns about the effect on other individual's privacy. Images recorded by surveillance systems are personal data which must be processed in accordance with data protection legislation and regulation.

This procedure aims to set out clear guidance on when residents can lawfully install CCTV and:

- Residents' obligations in the protection and processing of personal data
- Residents' obligations in the protection of personal data
- Individuals' rights in relation to their personal data

In certain circumstances, misuse of information generated by CCTV or other surveillance systems can constitute a criminal offence.

This procedure has been consulted with Housing 21's Resident Engagement Groups and takes best practice from the ICO.

## **Equality, Diversity, and Inclusion**

Housing 21 aspires to embed diversity and inclusion within all our organisational activities to enable these principles to become part of our everyday processes.

### **1.0 CCTV Surveillance**

- 1.1 Surveillance systems means any devices or systems designed to monitor or record images of individuals or information relating to individuals. The term includes CCTV systems as well as any technology that may be introduced in the future such as body worn cameras, unmanned aerial systems and any other systems that capture information of identifiable individuals or information relating to identifiable individuals.

### **2.0 Using CCTV at your home**

- 2.1 There are many domestic CCTV systems on the market to help residents to protect their home. If a resident is considering the installation of a

CCTV system, they need to make sure they do so in a way that respects other people's (residents, employees of Housing 21, contractors, and visitors) privacy.

- 2.2 If a resident sets up their system so it captures only images within the boundary of their private domestic property (including their private garden space), then the data protection laws will not apply to them.
- 2.3 However, if the CCTV system captures images of people outside the boundary of their private domestic property – for example, into neighbours' homes or gardens, shared spaces, or on a public footpath or street, then the UK General Data Protection Regulation (UKGDPR) and the Data Protection Act 2018 (DPA18) will apply, and the resident will need to ensure their use of CCTV complies with these laws. This guidance refers to them as the 'data protection laws'.
- 2.5 Regardless of whether or not a residents' use of CCTV falls within the data protection laws, the ICO (Data Protection regulator) recommends they use it responsibly to protect the privacy of others.

### **3.0 Private Domestic Property**

- 3.1 A private domestic property means the boundary of the property (including the garden) where a resident lives.
- 3.2 To use CCTV responsibly at the property residents should consider whether CCTV is the best way to improve home security and should take into account:
  - Do I really need CCTV?
  - Are there other things I could use to protect my home, such as better lighting?
  - What is the most privacy-friendly way to set up the system?
  - What areas do I want the cameras to capture?
  - Can I position the cameras to avoid intruding on my neighbours' property or any shared or public spaces?

- Do I need to record the images, or is a live feed enough?
- Has my CCTV system got an audio-recording facility?

**Audio recording is very privacy intrusive. So, in most cases where householders use CCTV, they should disable audio recording.**

#### **4.0 Points Residents Must Consider**

- 4.1 Residents should consider the problem they are trying to tackle. It will usually be to safeguard themselves and their property against crime.
- 4.2 Residents are encouraged to discuss their concerns with the Scheme Manager and the location of operational CCTV cameras installed on Court, in communal areas, for the prevention and detection of crime or Anti-Social Behaviour. Better locks, security lighting or an alarm system may be more effective and less expensive ways of securing their property.
- 4.3 If a resident still decides to use CCTV, they should discuss the areas the camera will cover with the Scheme Manager, as it is likely that the video footage will capture communal areas and can be considered privacy intrusive. NB If the cameras do not capture images beyond the resident's boundary, which is unlikely in a shared living space, data protection laws will not apply.
- 4.4 If the CCTV captures images beyond their property boundary, such as a neighbours' property or public streets and footpaths, then use of the system is subject to the data protection laws.
- 4.5 This does not mean the resident is breaking the law. But it does mean that, as a CCTV user, the resident is the data controller and will therefore need to comply with legal obligations under the data protection laws.
- 4.6 A consultation should be held with the residents if it is determined that the CCTV recording will encroach upon shared space. Recording shared

spaces is considered privacy intrusive under the legislation and could be considered a breach of data protection legislation.

- 4.7 Images can be captured but residents will need to show they are doing it in ways that comply with data protection legislation and uphold the rights of the people whose images they are capturing.

## **5.0 Images Captured of People Outside of a Residents Home Boundary**

- 5.1 If a resident is capturing images beyond their property boundary, they should have a clear and justifiable reason for doing so. Residents will need to think about:

- why they need these images.
- if asked by an individual or the ICO, they will need to be able to explain their reasons
- they should retain a written copy of the reasons for capturing the images and why this is more important than invading the privacy of their neighbours and passers-by.
- They should have evidence of consultation with residents and the Scheme Manager

- 5.2 Residents will be Required to:

- Let people know they are using CCTV by putting up signs saying that recording is taking place, and why.
- Ensure they do not capture more footage than they need, to achieve their purpose in using the system.
- Ensure the security of the footage they capture – in other words, holding it securely and making sure nobody can watch it without good reason.
- Only keep the footage for as long as they need it – delete it regularly, and when it is no longer needed.
- Ensure the CCTV system is only operated in ways they intend and cannot be misused for other reasons. Anyone who shares the property, such as family members who could use the equipment, need to know the importance of not misusing it.

5.3 Residents also need to respect the data protection rights of the people whose images they capture, and this includes:

- Responding to [subject access requests](#) (SARs), if they receive any. Individuals have a right to access the personal data you hold about them, including identifiable images. They can ask you verbally or in writing. Residents must respond within one month and give the requestor a copy of the data.
- Deleting footage of people if they ask you to do so. This should be done within one month. You can refuse to delete it if you specifically need to keep it for a genuine legal dispute – in which case you need to tell them this and tell them they can challenge this in court or complain to the ICO.
- Consider any objections they have received during the resident consultation process. They should again think whether they need to record images beyond their property boundary – particularly if the system is capturing images from a neighbour's home or garden.

## 6.0 Breaking the Law

6.1 If a resident fails to comply with their obligations under the data protection laws, they may be subject to enforcement action by the ICO. This could include a fine. They may also be subject to legal action by affected individuals, who could pursue court claims for compensation, and they could be in breach of their tenancy, if they have not followed Housing 21 guidance on domestic CCTV.

6.2 If a resident follows this guidance and takes all reasonable steps to comply with data protection obligations, the ICO is unlikely to regard them as a regulatory risk. So, the ICO would be unlikely to think that taking enforcement action against the resident was a proportionate use of its resources.

## 7.0 What Else Must Residents Consider

- 7.1 Before the resident installs the system, they should conduct a consultation with residents and explain what they are doing. They should listen to any objections or concerns they may have. It may also be useful to invite neighbours to view the footage they capture. This may relieve any concerns they have about their use of CCTV. It may also avoid disputes escalating or complaints being made about recording.
- 7.2 The phrase 'domestic CCTV system' refers to the use of any video surveillance equipment mounted or fixed on a resident's home. **It can include cameras fitted to doorbells.**
- 7.3 Residents should remember that their use of a domestic CCTV system may be appropriate, but publicly uploading or streaming footage of identifiable people would need more justification. In most cases it would not be justifiable and may be in breach of your tenancy agreement.
- 7.4 Residents do not need to register with the ICO or pay a fee (this is a change from the previous law). However, they must maintain records of how and why they are capturing these images, and for how long they are keeping them. They may need to make these records available to the ICO on request.

## 8.0 Covert Monitoring

- 8.1 Residents should only ever consider the use of covert CCTV in exceptional circumstances and **ONLY** in their own homes. Residents should consider the following conditions:
- That there are grounds for suspecting criminal activity or equivalent malpractice such as behaviour which puts them at risk.
  - That covert monitoring is the only practical way of obtaining evidence of this malpractice.
  - That informing people about the monitoring would make it difficult to prevent or detect such wrongdoing.

- That the camera would be used only for a specific investigation, for a specified and limited time and be removed when the investigation has been completed.

**8.2 Covert monitoring in communal or shared spaces by residents is strictly prohibited and will be reported to the ICO and investigated by Housing 21 under our security incident event management procedure, overseen by the Data Protection Officer (DPO). Any unlawful activity is a breach of tenancy and will be managed and investigated as such.**

## **9.0 Leasehold properties**

**9.1** All residents who live in leasehold properties should be made aware of data protection legislation and regulation, to ensure that any installation of video recording devices complies with data protection legislation. It would be the leaseholds resident's responsibility, as the 'data controller' to ensure that they meet the criteria set out in the legislation and ICO Guidance: [Domestic CCTV systems - guidance for people using CCTV | ICO](#)