



Douglas City Council

CCTV and Surveillance

Policy

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1.0 Introduction

- 1.1 There has been recent growth in affordable home video security products available to the general public. Many of the products are wireless, using home Wi-Fi networks to capture and store information and images. Their ease of installation and use means that they are an affordable security enhancement for many members of the public including our tenants.
- 1.2 The advances in technology have also become a factor with the emphasis on 'Smart Homes' with devices such as smart doorbells, smart lights and smart locks. This has prompted the need to introduce an internal policy to monitor and control the usage of such devices to ensure no regulations are being breached.
- 1.3 Douglas City Council recognises that some of our tenants and leaseholders will feel more secure if they install CCTV in order to deter crime or if they have been experiencing antisocial behaviour.
- 1.4 We also recognise that neighbours may find the erection of a CCTV camera on their neighbours' home a breach of their privacy. Please be aware that if a tenant installs CCTV without our permission, or do not follow the conditions highlighted in this document regarding its installation, cost and use, then this may have legal consequences, either by being in breach of the tenancy or lease agreement or the law relating to the Data Protection Act (2018).

2.0 Purpose

This guidance is for tenants seeking permission to install a Closed Circuit Television (CCTV) System or other video image capturing device at their home. It is also to be referred to by our staff when assessing applications. The simplicity of using modern CCTV and image capturing devices means that the legal requirements for capturing and storing personal data can be overlooked. This guidance sets out the legal requirements that tenants must follow and our expectations as a landlord.

3.0. Legal Requirements

- 3.1 The Information Commissioner's Office (ICO) is the Island's independent body set up to uphold information rights. The ICO says that if you're thinking of using a domestic CCTV system then you need to make sure it is done so in a way that respects other people's privacy.
- 3.2 The ICO explains that if a system is set up so it captures only images within the boundary of a private domestic property (including a garden), then the data protection laws will not apply.
- 3.3 If the system captures images of people outside the boundary of a private domestic property – for example, in the neighbours' homes or gardens, shared spaces, or on a public footpath or a street, then the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA18) will apply. There will be a need to ensure the use of CCTV complies with these laws.
- 3.4 If the installation of the system requires compliance with Data Protection laws and it isn't adhered to, legal action may be taken.

4.0. Regulations, Acts & Human Rights

4.1 The General Data Protection Regulation (GDPR)

The General Data Protection Regulation (GDPR) is a legal framework that sets guidelines for the collection and processing of personal information from individuals. The GDPR sets out seven key principles:

- Lawfulness, fairness and transparency
- Purpose limitation
- Data minimisation
- Accuracy
- Storage limitation
- Integrity and confidentiality (security)
- Accountability

4.2 Data Protection Act 2018

The main law that governs the use and installation of CCTV is the Data Protection Act 2018. The Act gives everyone the right to see information captured about them. It also sets strict rules that CCTV operators must follow when they gather, store, and release CCTV images of individuals.

4.2.1 CCTV on domestic property

If you install CCTV on domestic property, you should avoid capturing neighbours' properties as this intrudes upon their privacy. Many CCTV systems come with **audio recording** facilities. Audio recording is particularly privacy intrusive and should be disabled. ***The DP law does NOT apply to CCTV that only records images of individuals who are:***

- Inside your domestic property or
- Within the boundary of your domestic property as this will be for purely personal or household activities.

The Data Protection Law DOES apply to CCTV installed at a domestic property in all other circumstances and you should read the CCTV guidance for "controllers" to understand the law and all your obligations.

4.2.2 Controller

If your system captures images of people outside the boundary of your domestic property, e.g. in neighbours' homes or gardens, shared spaces, or on a public footpath or a street, then the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA18) will apply to you. You will need to ensure your use of CCTV complies with these laws. If the installation of your system requires you to comply with Data Protection laws and you don't, legal action may be taken against you.

See extract below from the Information Commissioner's website:

Data Controller:

"If a camera or device captures images of people in any public space, such as a footpath, roadway, shared parking area or communal entrance, etc., this does not mean that you are breaching the Data Protection law, but it does mean that you are a "controller".

As a "controller", you must comply with the Data Protection law, including the data protection principles and individuals' rights.

“*Controllers*” are accountable for the processing of personal data and must:

- Display signage advising that CCTV is in operation, which includes details about how the “controller” can be contacted.
- Keep CCTV images for no longer than necessary.
- Keep CCTV images secure.
- Comply with the rights of individuals, in particular the right to request, and be given, copies of their personal data (i.e. CCTV images of them), or request their personal data to be erased.

“*Controllers*” must also register with the Commissioner, for which an annual fee is payable.

4.3 Human Rights

4.3.1 What the CCTV can view and record is very important. Whilst it is lawful for CCTV cameras to be installed in and outside homes for security purposes, the manner in which the CCTV is used, in particular where the camera views area outside the boundaries of the property, may have legal consequences.

4.3.2 Cameras being deliberately trained on a neighbour’s property could amount to harassment and a breach of their fundamental human rights.

4.3.3 The Human Rights Act (HRA) covers an individual’s right to privacy.

4.3.4 The HRA gives fundamental rights and freedom to everybody, this Act is based on the European Convention on Human Rights (ECHR) and in Article 8 it states that:

- “Everyone has the right to respect for his private and family life, his home and his correspondence”.

4.3.5 The right to respect for private and family life means that CCTV and all other image capturing devices should be positioned so that they only observe activities within the boundaries of a particular property and not any neighbouring property or other public areas.

5.0 Procedure

5.1 CCTV can be an excellent tool to prevent crime and Anti-Social Behaviour (ASB), however there are often cheaper and more effective options.

5.2 Before installing CCTV check that its use is necessary and not disproportionate, for example:

- Do I really need a camera to address my security concerns?
- Would extra lighting or sensor lighting be as effective?
- Is there an alternative to a camera?
- Is there anyone who could advise me about alternatives?
- What is the most privacy friendly way to set it up?
- Can I avoid intruding into my neighbours' property?

5.3 If the camera covers, even partially, any areas beyond the boundaries of the property, such as neighbouring gardens or the street (this will include any communal areas such as shared gardens and paths), then it will no longer be exempt from the Data Protection Act.

5.4 For victims of ASB we would advise to speak to one of the following:

- In the first instance, The Eastern Neighbourhood Policing Team at Douglas Police Headquarters and
- The Housing Manager at the Department

We recommend talking to one of the specialists above before going to the expense of a CCTV system. ASB can be reported to the Police and to Douglas City Council.

5.5 Requesting Permission if you live in a Flat

Written permission must be obtained from the Housing Department before installing CCTV or other video image capturing devices. Permission will not be granted except in exceptional circumstances. This is because most, if not all, video cameras for flats will capture images of communal areas. We must balance the privacy rights of our other tenants and the general public whose images would be captured.

5.6 Requesting permission if you live in a House

5.6.1 Written permission must be obtained from the Housing Department before installing CCTV or other video image capturing devices. Permission will be considered when it can be demonstrated that the camera will not capture images beyond the garden of the home.

5.6.2 If images can be captured of public or any area outside of the property then applicants must demonstrate that Data Protection law will be complied with and the guidance from the ICO will be met in full.

5.6.3 The guidance from the ICO is set out below:

5.6.4 If you are capturing images beyond the property boundary, there should be a clear and justifiable reason for doing so. In particular, think about why these images are required.

5.6.5 If asked by an individual or the ICO, an explanation will be needed of your reasons. Consider writing down why capturing the images is more important than invading the privacy of a neighbours or passers-by.

There will also be a need to:

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

5.6.6 There is a need to make sure that respect is given to the data protection rights of the people whose images are captured.

5.6.7 This includes the following:

- Responding to subject access requests (SARs), if any are received. Individuals have a right to access the personal data held about them, including identifiable images. They can ask for this verbally or in writing. A response within one calendar month is required to give them a copy of the data.
- Deleting footage of people if they ask. This should be done within one month. Refusal to delete can be given if the footage is specifically needed or to keep it for a genuine legal dispute – in which case, tell them this, and also tell them they can challenge this in court or complain to the ICO.
- Consider any objection from particular people about capturing their image in the future. Given the nature of CCTV systems, this may be very difficult to do. However, consider whether you need to record images beyond your property boundary – particularly if the system is capturing images from a neighbour's home or garden.
- Consideration to any blocking view to windows and gardens, as there is no justification for this.

5.7 How you apply and how we assess requests for permission?

5.7.1 The Housing Department will be responsible for administering requests for permission. Any Tenant wishing to install a surveillance system must request permission from the Housing Department using the standard alterations process. They will be required to complete an alteration form (see appendix 1) detailing the reason for request, specification of equipment including whether audio will also be recorded, intended position of equipment and who will have access to these recordings.

5.7.2 The Housing Department will review the request and make a decision based on the information provided, the decision will be confirmed in writing to the Tenant.

5.7.3 As part of the process to reach a decision, the Assistant Housing Manager (Maintenance) or a Maintenance Officer may make contact or visit your home to inspect the location of the CCTV camera and agree on the installation requirements to the building.

5.7.4 All requests will be assessed on a case by case basis.

5.7.5 In granting permission, the following criteria will be taken into consideration:

- Do you live in a house or a flat?
- Will images be captured beyond the boundary of the property?
- The reason for the request?
- What other action has been taken to resolve the matter.
- Support from any other agency/organisation.
- Will this be a temporary or permanent measure?
- The number of cameras being requested?
- The dimensions of the equipment including how much it will protrude from the wall.
- The impact on the appearance of the building and the area.
- Will all GDPR, Data Protection Act and Human Rights Act requirements be met?

5.7.6 If the decision is approved, the policy and a standard template will be sent to the Tenant which will outline the advice given by the Information Commissioner on the usage of surveillance systems for personal reasons.

5.7.7 Installation of the surveillance system **MUST NOT** be carried out prior to any confirmation of approval from the Housing Department

5.7.8 The Housing Department will maintain a list of properties that have requested permission for a surveillance system along with the decision made.

5.8 Conditions Attached to Approval

5.8.1 If approval is given, the following conditions will apply:

- The installation must be carried out by a competent person.
- The CCTV must be securely fixed on an external wall and adequate care must be taken to ensure that the fabric of the building is not damaged or altered.
- The camera must not be remotely controlled i.e. it cannot be moved left or right remotely or zoomed in or out using a controller.
- The CCTV footage must be made available to the Police if it is needed to help with any investigation of crime and/or anti-social behaviour.
- The CCTV must be removed at the end of the tenancy and any damage to the property repaired. The property will need to be inspected by a Maintenance Officer to ensure we are content with the repair.

5.8.2 A decision will be sent in writing and a record of the decision will be recorded on the Housing Management System. We reserve the right to review or withdraw permission should the CCTV or video device be misused or is the subject of a complaint. Please note that it is not possible to fit cameras onto any street lighting columns, trees, public buildings or public fencing without written consent from the responsible authority.

5.9 Maintenance and Costs

5.9.1 If you use CCTV or other video image capturing device it will be your responsibility to:

- Maintain the equipment, service it and repair it.
- Pay for the equipment, installation, ongoing maintenance, servicing and running costs.
- Make good to any damage when removing the CCTV or other video image capturing device, this will include to the external or internal areas of the property where the equipment was attached, cabling passed through, etc.
- Pay for any damage caused by the CCTV or other video image capturing device in line with our recharge policy.

5.9.2 Douglas City Council are not responsible for maintaining the equipment, making good any damage when the equipment is installed/removed, or for paying for running costs.

5.10 Will you need to put up a sign if you install CCTV?

5.10.1 You are not required to put up a sign if your camera is not capturing images outside of your property including your garden. If you do capture images of a public place or outside your garden then you would need to put up a sign, however, we are unlikely to give you permission to install the CCTV where this is the case.

5.10.2 Even if you are not required by law to put up a sign, informing people they are entering an area covered by CCTV, it is strongly advised and may help should a claim be made against you that you are making inappropriate use of your CCTV cameras.

5.11 Other Ways to Stay Safe

5.11.1 Many people think the idea of CCTV is comforting, especially if they have been the victim of crime, or there have been a spate of burglaries or antisocial behaviour in the neighbourhood. But there are other (much simpler and cheaper) ways for the tenant to stay safe and protect their home against crime that will not put the tenant on the wrong side of their tenancy agreement or Data Protection laws.

5.11.2 Follow these simple home security tips and IOM Constabulary useful advice by checking out their website for more useful advice <https://www.iompolice.im/advice/personal-safety-crime-prevention/>

- Always lock doors and windows when you leave home, especially if you live on the ground floor. And if you live in a flat ensure communal doors are always closed.
- Keep cycle stores, sheds and other covered areas locked and secured.
- Make your valuables such as bikes and electrical items less attractive to thieves by using a UV pen to mark them. The mark only shows up when illuminated with a UV (ultra violet) light and will help police to scan any recovered stolen goods.
- Never leave packaging from expensive items outside your front door as this could be an invitation to burglars to break in.

6.0 Education & Training Requirements

Training and Understanding Sessions will be carried out with all Douglas City Council Housing Department to ensure all officers fully understand the policy and how it is to be implemented.

7.0 Monitoring Compliance With and the Effectiveness of the Procedure

7.1 Complaints of use of CCTV

7.1.1 Any complaints or concerns raised by Tenants in relation to surveillance systems installed on Douglas City Council Housing's properties will be dealt with accordingly by ensuring all allegations are investigated.

7.1.2 Should it be identified that surveillance systems have been installed without prior permission from the Housing Department or are breaching any regulations set out in this policy and in the Information Commissioner's guidance then action will be taken instructing the owner to remove the devices immediately. Failure to do so may lead to tenancy and/or legal action being taken.

7.1.3 Individuals can complain to the Information Commissioners about the use of CCTV to record their activities (i.e. whether the processing of their personal data complies with the data protection legislation) and the Information Commissioner will take action and may ask you to demonstrate how you comply with the Data Protection law. You should also be aware that other laws that protect individuals from harassment or voyeurism might apply and people may make complaints to the police or local authority.

7.1.4 Individuals may also seek compensation from a "*controller*" if they suffer any damage by the processing. Private individuals should therefore carefully consider their use of surveillance equipment. Regardless of whether the Data Protection law applies or not, CCTV should be used in a responsible way that respects the privacy of others.

Further information is available on the Information Commissioner's Website: <https://www.inforights.im/organisations/data-protection-law-2018/technical-guidance/surveillance-cameras/> by email to: ask@inforights.im or by calling 693260.

7.2 Policy Review

This policy will be reviewed every three years, unless there are significant changes in legislation, regulation, or central or local government guidance.

8.0 Equality and Diversity

8.1 The Housing Department are committed to dealing with all tenants in a fair and equitable manner.

8.2 With regard to recharges, we will consider every case on its merits. Circumstances where we may decide to waive the recharge include, but are not limited to:

- Where there has been criminal damage to our property, evidenced by a police incident report, but the damage was caused by persons unknown or in a situation of domestic abuse or harassment
- Where damage is found following the end of a tenancy and it is considered inappropriate to pursue the former tenant or their next of kin for the charges. Examples include where residents have been moved into hospital or residential care. Where a resident has died, we may seek to recover any costs from the deceased's estate.
- Instances where the customer has significant vulnerability issues, such as a lack of mental capacity.

9.0 Related Policies

Douglas City Council's Privacy Notice

10.0 References, Definitions & Appendix

10.1 Definitions

CCTV: Closed Circuit Television, webcams and other video recording equipment.

Many CCTV systems now come with audio recording facilities. Audio recording is particularly privacy intrusive and in the vast majority of cases where CCTV is being used audio recording should be disabled

Data Protection officer (DPO): A statutory role set out under the Data Protection Act with responsibility for ensuring that organisations are compliant with personal privacy rights. Any resident can report a personal privacy concern about the Council to the Data Protection Officer.

ECHR: European Convention on Human Rights

General Data Protection Regulation (GDPR): A Regulation establishing data protection principles and privacy rights for people whose data is processed in the European Union. It is supplemented in British law by the Data Protection Act 2018 which enshrines its rights and principles.

Information Governance: The discipline of applying controls to how information or data is created, how it is stored and where it moves.

Monitoring Officer: A statutory role under section 5 of the Local Government and Housing Act 1989 whose role is to ensure that the Council, its officers and elected members maintain the highest standards of conduct which includes ensuring the lawfulness and fairness of decision making.

Appendix 1 – Douglas City Councils Alterations Application Form