



ONCHAN DISTRICT COMMISSIONERS

Aim: This guidance is for Tenants seeking permission to install a Closed Circuit Television (CCTV) or other video image capturing device at their home. It is also to be referred to by our staff when assessing applications.

GUIDANCE ON THE USE OF CLOSED CIRCUIT TELEVISION (CCTV) FOR SOCIAL HOUSING

Policy Date: October 2022
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Onchan District Commissioners

Guidance on the use of CCTV for Social Housing



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Policy Review - History:

Please be aware that a hard copy of this document may not be the latest available version, which is available in the Authority's document management system, and which supersedes all previous versions.

Those to whom this policy applies are responsible for familiarising themselves periodically with the latest version and for complying with policy requirements at all times.

Acknowledgement to Red Kit Community Housing

Effective from:	Replaces:	Originator:	Page X of Y
October 2022	New	Chief Executive/Clerk	1 of 7
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History or Most Recent Policy Changes – MUST BE COMPLETED		
Version:	Date:	Change:
1	12/10/2022	New Document (ODC approval 17/10/22)



ONCHAN DISTRICT COMMISSIONERS

Guidance on the use of CCTV for Social Housing

1. **PURPOSE**

This guidance is for tenants seeking permission to install a Closed Circuit Television (CCTV) 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.

2. **INTRODUCTION**

There has been recent growth in affordable home video security products available to the general public. Many of the products are wireless, using home wifi 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.

Brands such as Ring, Nest and Yale sell devices which resemble traditional CCTV cameras, but also devices which locate a camera inside a doorbell. Owners can then have live and recorded images at their fingertips on their mobile phone or computers.

Onchan District Commissioners 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 anti-social behaviour.

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 you install 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 for you by being a breach of your tenancy or lease agreement and also the law relating to Data Protection.

3. **USE OF CCTV AND VIDEO IMAGE CAPTURING**

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

If you are a victim of ASB we would advise you to speak to one of the following:

- The Housing Manager at Onchan District Commissioners;
- The Eastern Neighbourhood Policing Team at Douglas Police Headquarters;

We recommend you talk to one of the specialists above before going to the expense of a CCTV system.

You can report ASB to the Police and to Onchan District Commissioners.

4. **LEGAL REQUIREMENTS**

The Information Commissioner's Office (ICO) is the Island's independent body set up to uphold information rights. The ICO tells you that if you're thinking of using a domestic CCTV system then you need to make sure you do so in a way that respects other people's privacy.

The ICO explains that if you set up your system so it captures only images within the boundary of your private domestic property (including your garden), then the data protection laws will not apply to you.

If your system captures images of people outside the boundary of your private domestic property – for example, 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.

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

5. **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 you captured about them.

It also sets strict rules that CCTV operators must follow when they gather, store, and release CCTV images of individuals.

There is detailed guidance available on the Information Commissioner's Office website – <https://www.inforights.im/>

6. HUMAN RIGHTS

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.

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

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

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"

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.

7. IS CCTV OR VIDEO IMAGE CAPTURING THE RIGHT SOLUTION FOR ME?

Most people who choose to install CCTV do so primarily to deter would-be intruders from trespassing onto or breaking into their homes.

Before installing CCTV you should 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?

If your camera covers, even partially, any areas beyond the boundaries of your 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.

8. REQUESTING PERMISSION IF YOU LIVE IN A FLAT

You must obtain written permission from Onchan District Commissioners 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.

9 **REQUESTING PERMISSION IF YOU LIVE IN A HOUSE**

You must obtain written permission from Onchan District Commissioners 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.

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.

The guidance from the ICO is set out in the table below.

If you are capturing images beyond your property boundary, you should have a clear and justifiable reason for doing so. In particular, you will need to think why you need these images.

If asked by an individual or the ICO, you will need to be able to explain your reasons. You should also write down why you think capturing the images is more important than invading the privacy of your neighbours and passers-by.

You will also need to:

- Let people know you are using CCTV by putting up signs saying that recording is taking place, why and how to contact the 'Controller'
- Ensure you don't capture more footage than you need to achieve your purpose in using the system.
- Ensure the security of the footage you 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 you need it – delete it regularly, and when it is no longer needed.
- Ensure the CCTV system is only operated in ways you intend and can't be misused for other reasons. Anyone you share your property with, such as family members who could use the equipment, needs to know the importance of not misusing it.

You also need to make sure you respect the data protection rights of the people whose images you capture.

This includes the following things:

- Responding to subject access requests (SARs), if you 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. You must respond within one calendar month and give them a copy of the data.
- Deleting footage of people if they ask you to do so. You should do this 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 also tell them they can challenge this in court or complain to the ICO.
- Consider any objection you get now from particular people about capturing their image in the future. Given the nature of CCTV systems, this may be very difficult to do. However, you should again think whether you need to record images beyond your property boundary – particularly if your 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.

10 HOW WE WILL ASSESS REQUESTS FOR PERMISSION?

The Housing Team will be responsible for administering requests for permission. As part of the process to reach a decision, the Property Maintenance Manager may contact you or visit your home to inspect the location of the CCTV camera and agree on the installation requirements to the building.

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

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?

11 CONDITIONS ATTACHED TO APPROVAL

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 home must meet our Home Return Standard.

You will receive our decision in writing and a record of the decision will be recorded on the Onchan District Commissioners' 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 you cannot fit cameras onto any street lighting columns, trees, public buildings or public fencing without written consent from the responsible authority.

12 MAINTENANCE AND COSTS

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;
- to 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.

We are not responsible for maintaining the equipment, making good any damage when the equipment is installed/removed, or for paying for running costs etc.

13 WILL YOU NEED TO PUT UP A SIGN IF YOU INSTALL CCTV?

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.

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

14 OTHER WAYS TO STAY SAFE

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 customer to stay safe and protect their home against crime that will not put the customer on the wrong side of their tenancy agreement or data protection laws.

Follow these simple home security tips and IOM Constabulary and check 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.
- Join your local Neighbourhood Watch to help keep potential criminals out of the area.
- Never leave packaging from expensive items outside your front door as this could be an invitation to burglars to break in.

15. FURTHER GUIDANCE

Further guidance The Information Commissioner's Office (ICO) offers further guidance about domestic CCTV use; <https://www.inforights.im>

This guidance is to be implemented in conjunction with the following:

15.1 Tenancy Agreement

The individual Tenancy Agreement will specify the responsibility of both Onchan District Commissioners and the customer for repairs to the property.

15.2 Recharge Policy

Policy Drafted and awaiting approval.

15.3 Legal/Policy Framework

- General Data Protection Regulation (GDPR)
- Human Rights Act 2001
- Data Protection Act 2018

16. DATA PROTECTION

16.1 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.

16.2 Controller

If your system captures images of people outside the boundary of your domestic property – for example, 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.

17. COMPLAINTS OF USE OF CCTV

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.

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/surveillance-equipment/personal-use-of-cctv/> by email to: ask@inforights.im or by calling 693260.

18. EQUALITY AND DIVERSITY

15.1 Onchan District Commissioners are committed to dealing with all tenants in a fair and equitable manner.

15.2 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.

19. **POLICY REVIEW**

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

APPENDIX 1 - GUIDELINES SUMMARY

KEY POLICY PRINCIPLES

Tenants must ask our permission before installing CCTV because we must be sure that the system doesn't break the law or damage any property. We will not withhold permission if the following applies:

- The system covers just your property and nobody else's
- CCTV does not cover communal areas
- The system does not cause damage to neighbouring properties and that any damage is made good
- Suitable signage is installed
- Reasons for the CCTV are provided. We may ask tenants to consider other solutions before giving permission. For example, security lighting and neighbourhood watch schemes.
- That Authorities are able to view the cameras once fitted, at installation or at a later time if requested
- That the system complies with relevant law.

We will not provide consent or may withdraw consent if residents are not meeting these conditions or have not sought prior consent before installing CCTV. If cameras are clearly focused on neighbours' homes or property then this may be deemed as behaviour capable of causing a nuisance or annoyance and is a breach of the terms of the tenancy agreement. In these instances we will ask for the CCTV equipment to be removed and if no action is taken we reserve the right to take legal action to remove it and costs will be re-charged.

Residents are responsible for the images they record and must comply with legislation, for example:

- They can only keep information for as long as necessary;
- They must be able to justify the use of CCTV under the law;
- Their images must be of good enough quality to identify people.

For more information residents can go to the Information Commissioners Office website at <https://www.inforights.im/>