

Use of Surveillance in a Foster Home

Introduction:

The Data Protection Act has significant implications for individuals using or considering installing a Closed Circuit Television (CCTV) system. It is crucial for foster carers to discuss the available guidance, reasons for wishing to install CCTV and the place of the CCTV with their Supervising Social Worker and if applicable the social worker of the child placed with them before arranging the CCTV installation, as this information should be brought to the attention of the Registered Manager in the IFA and the Team Manager of the child's placing local authority.

The regulations and guidance concerning CCTV fall under the UK General Data Protection Regulations (UK GDPR) and the Data Protection Act 2018 (DPA18). The Information Commissioner's Office (ICO) regulates this legislation, and carers must ensure that any CCTV system operates within the regulatory guidelines.

Guidance on the Use of CCTV:

The typical reason for installing a CCTV system is to protect property or prevent anti-social behaviour. However, when considering its appropriateness, the following factors should be taken into account:

1. Is a CCTV system necessary? Is it a proportionate response to a perceived or actual threat?
2. Are there alternative security measures, such as additional locks or motion sensors, that could be considered?
3. Have the police been consulted for crime prevention advice and suggestions for alternative or additional security features?
4. Where will the cameras be positioned? Will they be used inside and/or outside the home?
5. Will the system operate continuously, and will it include audio recording?
6. How will the planned use of CCTV impact other individuals? How will recordings be stored, by whom, and for how long?

The Regulations Regarding CCTV:

The positioning of cameras is crucial, and there should be open and honest discussions between those who own and operate the system and those who may be affected, such as neighbours or visitors to the home. The cameras should only record within the domestic boundaries, i.e., the perimeter of the property. If a camera is focused to record beyond this area, the foster carer has a responsibility to ensure that the system is correctly installed and operated and that they have a good understanding of the legislation and up-to-date guidance related to CCTV.

Recordings Taken Outside Your Property:

It is advisable for the data controller/ foster carer to have a good understanding of CCTV regulations in case anyone wishes to exercise their rights regarding data protection or make a subject access request (SARS). The CCTV system must not be used for any purpose other than its intended use. Before installing the system, it is recommended to inform neighbours about the installation and provide reasons for it. Additionally, a visible notice stating the use of CCTV should be displayed on the property. The use of audio recording could be seen as intrusive by some, so the person responsible for operating the CCTV should consider its necessity and disable it if not needed.

If recordings are made outside the property boundary, whether intentionally or unintentionally, the use of the system falls under data protection laws. This means that the person responsible for the system is considered a 'data controller.' This does not necessarily imply breaking the law, but it is necessary to demonstrate compliance with the regulatory guidance. There is an expectation that the operator will respect the rights of those affected by the system. However, if images are captured and stored beyond the property boundary, it is essential to document the reasons why this is necessary, as it intrudes on 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 deemed necessary, proportionate, and known to all individuals living in or visiting the home. BFFC's IFA acknowledges that some families install CCTV to monitor their homes while they are away for security reasons or to monitor animals. Any installation or existing CCTV system must be reported to us, and the reasons for its installation should be discussed during the initial fostering assessment process and documented in the safer care plan. The Child Social Worker and Team Manager responsible for any child or young person placed in the home must also agree to its use. If CCTV is used, the storage and retention of records, including the duration of record-keeping and who can access the recordings, should be incorporated into the Home Safety Checks and the Safer Care plan.

CCTV must not be placed in bedrooms, bathrooms, or toilets, and all individuals residing in the home or responsible for a child placed with the carer should be informed about the camera locations. CCTV should never substitute for the supervision or oversight that carers provide for children and young people. Baby monitors are considered listening devices unless used to check a young baby's welfare when an adult is not present in the same room. For example, using a mobile phone as a baby monitor is acceptable for monitoring a sleeping baby but must not be used to monitor other people's activities. Baby monitors should not be used as a means of supervising older children.

When using CCTV, a sign should be displayed stating that only the operator and individuals with their consent can use the system, and they must have a valid reason to do so. In such cases, the person granted consent to use the system must sign a written agreement stating that they will not share or upload footage that could identify anyone.

Data Protection Laws:

If someone's privacy is infringed upon during the recording process, the person responsible for the CCTV system must respond to any subject access request (SARS) within one month of being contacted and provide a copy of the relevant data to the complainant. If requested, footage should be deleted, unless it is required for an ongoing legal dispute. The individual making the SARS request should be informed that they can challenge this decision in court or contact the ICO.

The CCTV operator should regularly assess whether the original reasons for recording remain valid. Failure to comply with regulations may result in enforcement action by the ICO, which could include fines. Non-compliance with the regulations may also expose data controllers to legal action from individuals whose images were recorded without consent.

Registering with the ICO or paying a fee is no longer necessary. However, it is essential for the data controller to maintain records of why and how images are being kept, for how long, and by whom. These records must be made available to the ICO upon request.

Changing the Use of CCTV:

Any requests for alternative or additional uses of CCTV, such as safeguarding vulnerable children, should be brought to the attention of the Registered Manager. Such requests should only be made after completing risk assessments that highlight significant concerns related to child safeguarding in the household. The request should also be discussed with the Supervising Social Worker and the Social Worker responsible for the child to obtain their views before proceeding. If the request is approved, the carer's Safer Care Plan and other relevant documents should be updated as soon as possible. Requests for changes in CCTV use should be regularly reviewed.

Please note that this summary may not cover all details or specific legal requirements. It is important to consult the actual legislation and seek professional advice for accurate and up-to-date information on CCTV usage and data protection regulations.