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| Policy / Procedure Details | Title: | Policy on the Use of Closed Circuit Television (CCTV) Systems | | |
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| | Related Personal Outcome Measure: | I have Time, Space and Opportunity for Privacy | | |
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| Current Version Details | Written By: | Bernard O'Regan, Executive Director | | |
| | Reviewed By: | Leadership Team | | |
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1. Mission Statement

Western Care Association exists to empower people with a wide range of intellectual and associated disabilities in Mayo to live full and satisfied lives as equal citizens.

In meeting this mission, the Association must ensure that the people who use its services, the members of the community who come in to contact with the organisation, and the volunteers and staff have their rights protected and vindicated by the Association in the conduct of its mission. At the same time, the Association must seek to support people in the least restrictive manner possible, bearing in mind the individual needs of each person.

2. Use of CCTV

In recent years the use of technology has increased. As the technology available has developed, the potential for its use has expanded so that it can assist people to live safely and or independently, e.g. the use of mobile phones, epilepsy monitors, safety pendants, etc.

One area of development has been in the use of CCTV as is evident in many major towns in Ireland where their use to monitor public spaces has increased. Systems now on the market have the capacity to recognise faces. They may also be capable of recording both images and sounds.

The expanded use of CCTV systems has society-wide implications. Unless such systems are used with proper care and consideration, they can give rise to concern that the individual's "private space" is being unreasonably eroded.

3. Western Care Association Policy on the Use of CCTV

It is the policy of Western Care Association that the use of CCTV be legal, proportionate and evidence based. CCTV should not be used in personal spaces such as within a person's home.

CCTV systems may be installed both internally and externally in premises, and on transport, for the purposes of enhancing security of people, of the building and its associated environment as well as creating a mindfulness among the occupants, at any one time, that a surveillance security system is in operation within and/or in the external environs of the premises during both the daylight and night hours each day.

4. Scope of the Policy

This policy applies to all staff and services under the remit of Western Care Association and relates directly to the location and use of CCTV, the monitoring, recording and subsequent use of such recorded material.

5. Data Protection Acts 1988 and 2003

The use of CCTV is controlled by the Data Protection Acts of 1988 and 2003. Recognisable images captured by CCTV systems are personal data. They are therefore subject to the provisions of the Data Protection Acts.

As the data controller, Western Care Association needs to be able to justify the obtaining and use of personal data by means of a CCTV system. A system used to control the perimeter of a building for security purposes will usually be easy to justify, as long as it is not focused on members of the public or on other people's private property. The use of CCTV systems in other circumstances, for example, to constantly monitor people using services or employees, is more difficult to justify and could involve a breach of the Data Protection Acts.

Proportionality:

- ***Is a CCTV System justified?***

Section 2(1)(c)(iii) of the Acts require that data are "adequate, relevant and not excessive" for the purpose for which they are collected. This means that an organisation must be able to demonstrate that the serious step involved in installing a system that collects personal data on a continuous basis is justified. Before proceeding with such a system, it should also be certain that it can meet its obligations to provide data subjects, on request, with copies of images captured by the system.

- ***What will the System be used for?***

If Western Care Association is satisfied that it can justify installing a CCTV system, it must consider what it will be used for and if these uses are reasonable in the circumstances. Security of premises or other property is probably the most common use of a CCTV system. Such a system will typically be intended to capture images of intruders or of individuals damaging property or removing goods without authorisation. Such uses are more likely to meet the test of proportionality.

Other uses may fail the test of proportionality. For example, using a CCTV system to constantly monitor service users is highly intrusive and would need to be justified by reference to special circumstances. If the monitoring is for health and safety reasons, the Association must demonstrate that the installation of CCTV is proportionate in addressing health and safety issues that have arisen prior to the installation of the system.

- ***What Images will be captured?***

The location of cameras is a key consideration. Use of CCTV to monitor areas where individuals would have a reasonable expectation of privacy would be difficult to justify. A person's home, toilets and bathrooms are obvious examples. To justify use in such an area, the Association would have to demonstrate that a pattern of security breaches had occurred in the area prior to the installation of the system such as would warrant constant electronic surveillance. Where such use can be justified, the CCTV cameras should never be capable of capturing images from cubicles or urinal areas. CCTV should not be used in place of the supervision that a person might need.

Cameras placed so as to record external areas should be positioned in such a way as to prevent or minimise recording of passers-by or of another person's private property.

Transparency

Section 2D of the Acts requires that certain essential information is supplied to a data subject before any personal data are recorded. This information includes:

- the identity of the data controller

- the purposes for which data are processed
- any third parties to whom the data may be supplied.

This can usually be achieved by placing easily-read and well-lit signs in prominent positions. A sign at all entrances or locations where CCTV is in use will normally suffice.

If the identity of the data controller and the usual purpose for processing such as security, is obvious, all that need be placed on the sign is a statement that CCTV is in operation as well as a contact (such as a phone number) for persons wishing to discuss this processing. This contact can be for either the security company operating the cameras or the owner of the premises.

If the purpose or purposes is not obvious, there is a duty on the Association to make this clear. A CCTV camera in a premises is often assumed to be used for security purposes. Use for monitoring service users or staff performance / conduct is not an obvious purpose and service users and staff must be informed before any data are recorded for this purpose. Similarly, if the purpose of CCTV is also for health and safety reasons, this should be clearly stated and made known.

Storage and Retention

Section 2(1)(c)(iv) of the Data Protection Acts states that data "shall not be kept for longer than is necessary for" the purposes for which they were obtained. Western Care Association will need to justify this retention period.

For a normal security system, it would be difficult to justify retention beyond a month, except where the images identify an issue such as a break-in or theft, and is retained specifically in the context of an investigation of that issue.

The storage medium should be stored in a secure environment with a log of access kept. Access should be restricted to authorised personnel.

Supply of CCTV Images to An Garda Síochána

If the Gardaí want CCTV images for a specific investigation, it is up to the Association to satisfy itself that there is a genuine investigation underway. For practical purposes, a phone call to the requesting Garda's station may be sufficient, provided that you speak to a member in the District Office, the station sergeant or a higher ranking officer, as all may be assumed to be acting with the authority of a District/Divisional Officer in confirming that an investigation is authorised.

Access Requests

Any person whose image has been recorded has a right to be given a copy of the information recorded. To exercise that right, a person must make an application in writing. A data controller may charge up to €6.35 for responding to such a request and must respond within 40 days.

Practically, a person should provide necessary information to the Association such as the date, time and location of the recording. If the image is of such poor quality as not to clearly identify an individual, that image may not be considered to be personal data.

In giving a person a copy of his/her data, the Association may provide a still/series of still pictures, a tape or a disk with relevant images. However, other people's images should be obscured before the data are released.

Covert Surveillance

The use of recording mechanisms to obtain data without an individual's knowledge is generally unlawful. Covert surveillance is normally only permitted on a case by case basis where the data are kept for the purposes of preventing, detecting or investigating offences, or apprehending or prosecuting offenders. This provision automatically implies an actual involvement of An Garda Síochána or an intention to involve An Garda Síochána.

Covert surveillance must be focused and of short duration. Only specific (and relevant) individuals / locations should be recorded. If no evidence is obtained within a reasonable period, the surveillance should cease.

If the surveillance is intended to prevent crime, overt cameras may be considered to be a more appropriate measure and less invasive of individual privacy.

Domestic use of CCTV Systems

The processing of personal data kept by an individual and concerned solely with the management of his/her personal, family or household affairs or kept by an individual for recreational purposes, is exempt from the provisions of the Acts. This exemption would generally apply to the use of CCTV's in a domestic environment. However, the exemption may not apply if the occupant works from home.

Policy and Procedure Feedback Form

A Policy and Procedure Feedback Form is available on the Western Care Association Intranet (under Procedures) which will provide an opportunity to comment on any policy/procedure.

Your comments will be forwarded to the person who has the lead for the on-going development of the policy/procedure.

All comments will be collated by the person responsible and will inform the three-yearly review cycle for updating procedures.