

Surveillance Equipment and CCTV Policy

Introduction

Quality statements are the commitments that providers, commissioners and system leaders should live up to. Expressed as 'we statements', they show what is needed to deliver high-quality, person-centred care.

When they refer to 'people' we mean people who use services, their families, friends and unpaid carers. This includes:

- people with protected equality characteristics
- those most likely to have a poorer experience of care or experience inequalities.

Elizabeth Finn Homes (EFH) will commit to the following quality statements for:

Learning culture

We have a proactive and positive culture of safety based on openness and honesty, in which concerns about safety are listened to, safety events are investigated and reported thoroughly, and lessons are learned to continually identify and embed good practices.

Safeguarding

We work with people to understand what being safe means to them as well as with our partners on the best way to achieve this. We concentrate on improving people's lives while protecting their right to live in safety, free from bullying, harassment, abuse, discrimination, avoidable harm and neglect. We make sure we share concerns quickly and appropriately.

Safe environments

We detect and control potential risks in the care environment. We make sure that the equipment, facilities and technology support the delivery of safe care.

Safe and effective staffing

We make sure there are enough qualified, skilled and experienced people, who receive effective support, supervision and development. They work together effectively to provide safe care that meets people's individual needs.

Consent to care and treatment

We tell people about their rights around consent and respect these when we deliver person-centred care and treatment.

Kindness, compassion and dignity

We always treat people with kindness, empathy and compassion and we respect their privacy and dignity. We treat colleagues from other organisations with kindness and respect.

Providing information

We provide appropriate, accurate and up-to-date information in formats that we tailor to individual needs.

Shared direction and culture

We have a shared vision, strategy and culture. This is based on transparency, equity, equality and human rights, diversity and inclusion, engagement, and understanding challenges and the needs of people and our communities in order to meet these.

Governance, management and sustainability

We have clear responsibilities, roles, systems of accountability and good governance. We use these to manage and deliver good quality, sustainable care, treatment and support. We act on the best information about risk, performance and outcomes, and we share this securely with others when appropriate.

Scope

This policy sets out the conditions, circumstances and safeguards under which the use of CCTV or similar technology may be used when delivering care to residents.

In addition, CCTV or similar may be used within or outside the registered premises for security purposes and this policy will identify how this may be used.

Overt Surveillance

This is where the resident and others being monitored would reasonably be aware of the surveillance occurring.

Covert Surveillance

Covert surveillance is where people being monitored are not aware of the surveillance occurring and is only appropriate in rare circumstances, where there is a pressing reason and for a short time to identify a specific incident or allegation.

This policy and procedure are provided for the regulated activity of accommodation for persons who require nursing or personal care.

Equality Statement

EFH is committed to equal rights and the promotion of choice, person-centred care and the promotion of independence. This policy demonstrates our commitment to creating a positive culture of respect for all individuals. The intention is, as required by the Equality Act 2010, to identify, remove or minimise discriminatory practice in the nine named protected characteristics of age, disability, sex, gender reassignment, pregnancy and maternity, race, sexual orientation, religion or belief, and marriage and civil partnership. It is also intended to reflect the Human Rights Act 1998 to promote positive practice and value the diversity of all individuals.

Policy Statement

Surveillance technology may be of assistance to:

- Protect residents' safety, for example from the risk of unsafe care or treatment.
- Keep premises and property secure.
- Help residents stay safe without restricting their activities.

There must be a legitimate, necessary, proportionate and fair purpose for installing surveillance, to meet a pressing need.

The purpose must be identified, and the information collected must not be used for other purposes.

The more surveillance threatens residents' privacy, the stronger the justification for using it must be.

There should be consideration of alternative means of dealing with the problem before proceeding with surveillance. There should be consultation for any overt surveillance with residents, their families and staff before installing surveillance. Where a resident does not have capacity, all the requirements of the Mental Capacity Act 2005 and its associated Code of Practice must be followed.

In special circumstances covert surveillance may be considered and it might not be possible to consult with people. For example, surveillance for a short time to investigate concerns about abuse when talking to people about it could risk alerting people who may be involved. In these circumstances there must be justifiable reasons for this decision. Whenever surveillance is used, it must not threaten our commitment to maintaining residents' dignity and respect.

Use of surveillance in the workplace should interfere as little as possible with workers' legitimate expectations of privacy. A 'privacy impact assessment' should be carried out to ensure all privacy issues are identified and the means of addressing them. This should include thinking about what sensitive information is likely to be captured by the surveillance, who it could adversely affect, and what alternatives could be used.

The ICO (Information Commissioner's Office) has published guidance that tells organisations how to do privacy impact assessments

In circumstances where CCTV or similar surveillance technology is being considered, it should never be used as a substitute for good selection of staff, or staff deployment, or proper training or supervision. Rather, it should be seen as part of the residents' care and support, and therefore must comply with the regulations under the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

EFH is also committed under this policy to meeting the requirements of relevant legislation, regulations and guidance including:

- The General Data Protection Regulation (GDPR), which is about data protection and privacy.
- The Human Rights Act 1998, in which Article 8 sets out people's right to privacy.
- The ICO's CCTV Code of Practice and the Surveillance Camera Code of Practice, which cover the positioning and use of CCTV cameras.
- The Equality Act 2010.

The Policy

EFH are committed to working with residents, their families and significant others, to provide the highest standards of person-centred care and support, which supports independence, personal choice and self-determination.

Staff and management will work with the resident/residents, their family, Powers of Attorney, Court Appointed Deputies and advocates to ensure that the use of CCTV and similar technologies is in the best interests of the resident/residents and supports their safety and wellbeing.

CCTV and Surveillance

If EFH decides to install CCTV, and surveillance equipment, it will do so in line with the guidance from the Information Commissioner Office ICO, including:

Step one: EFH will think about how it will respect people's privacy and uphold their rights.

People have a right to privacy, so the organisation will consider how it could impact them, especially residents, family, staff and visitors.

Where CCTV or other surveillance is being considered we will explain to staff the reasons for this.

Step two: Consider the use of audio.

Many cameras can record sound but, in most cases, it is not expected that this will be required for security purposes. Audio will be assessed on a case-by-case basis.

Where it is used, details of the reasons for it will be recorded in the data protection impact assessment.

Step three: Creating a document which explains the decision to use.

If CCTV, or surveillance equipment is decided upon, we will set out why CCTV is needed and how we plan to minimise the impact on people's privacy.

The data protection impact assessment (DPIA) document will explain the decision to use CCTV rather than any other options considered and will set out the assessment of how it will impact on people's privacy.

Step four: Update policies.

We will update relevant policies and procedures, including staff responsibilities, security measures and the privacy notice.

Step five: Review how the CCTV is set up.

Before using the CCTV, EFH will check the camera angle, put up signs to tell people it is there and register it with the ICO.

When the CCTV system is being installed, the organisation will make sure it only captures what is required and nothing more, e.g. adjustment of the camera angle to make sure what is captured is only what is needed. The organisation will also need to check the footage is clear and detailed.

The signs will be put up and make it clear that CCTV is in operation and will be displayed in noticeable areas, such as an office window. The signs will include contact details so that people know who is recording and what we are doing and why.

EFH will be required to pay the data protection fee.

Step six: Keep on top of the footage captured.

EFH will not keep CCTV footage for longer than needed, and each incidence of CCTV, or other surveillance activity, will be managed on a case-by-case basis. Length of storage and security for recordings will be identified in the DPIA.

Deployment for Residents

CCTV and similar surveillance equipment impacts on residents' privacy and we have no right to place equipment in a resident's bedroom or communal areas without full agreement and consent.

Initial Assessment

If surveillance is considered, an assessment must be carried out to determine whether surveillance is legitimate, necessary, proportionate and of fair purpose; and determine if:

There are alternative means that would intrude less on residents' privacy.

Surveillance is the best way to use resources.

Whether the plan to use surveillance gives a 'lawful basis' for processing data under GDPR.

If it is likely to collect sensitive (or 'special category') data – this means extra conditions under GDPR will need to be met.

Data Protection Impact Assessment

A data protection impact assessment (DPIA) can be useful for identifying privacy issues and may also help find ways to address these.

A DPIA should be carried out when planning surveillance where there is a high risk to residents' rights, freedoms and privacy.

The DPIA should be regularly reviewed and updated if things change.

Needs Assessment

Any surveillance must help meet the needs and interests of a resident/residents and an assessment must be carried out to determine these.

This is particularly important if the purpose is to protect a resident from risks of unsafe care or treatment.

Records must be kept of:

- The initial assessment and needs assessment.
- The purpose for using surveillance, including how it supports residents' needs.
- The DPIA.
- What alternatives to surveillance have been considered.
- Consultation with People Who May Be Affected by Surveillance

Surveillance can intrude on residents' and others privacy. It is therefore important to discuss this with the people whose privacy it is likely to affect.

Talking to people is the best way to understand their concerns about privacy and must be done as soon as it is practical.

People whose privacy surveillance is likely to affect are:

- The residents
- Their families and friends
- Staff
- Any visitors to the home

Consulting with people is not a one-off exercise and should be repeated at different stages while considering and using surveillance. For example, it could be useful to talk to people:

- When first considering using surveillance – this can help determine whether people affected have concerns.
- When detailed proposals have been developed.
- From time to time while using surveillance – to review its impact.

Where possible, people should be told:

- Why surveillance (the purpose) is being considered
- What type of surveillance may be used
- Where it is being considered for use
- What information will be collected
- Where and how the information will be used
- Who will have access to the information and how long it will be kept

A record of the process followed should be maintained when consulting with people together with their responses. Any privacy concerns raised should be incorporated into the DPIA.

Consent

Consultation with the resident/residents and other people affected is not the same as getting consent. Consent must be sought from residents affected where they have the mental capacity to do so. If someone lacks the mental capacity to give their consent, the Mental Capacity Act 2005 and the Code of Practice must be followed, and actions taken which are in the best interests of the resident (see Mental Capacity Policy). This may require a best interests meeting with a number of support stakeholders including:

- Resident
- Family and informal carers
- Registered Manager

- Power of attorney for health and welfare
- Health care professionals
- Social worker
- Local Authority commissioner

This is an example list, and others may be required depending on the individual circumstances of the resident and their wider circle of support.

Residents must understand all the information they need to make their decision for this to be 'informed consent'. Just because a resident does not object to a proposal does not mean they agree to it.

They must understand the benefits and risks of what they are being asked to consent to.

They need to have made their decision of their own free will, without pressure. (Some residents may come under pressure from worried relatives to consent even though the surveillance could be recording intimate personal care tasks).

Coercion or threat must never be used.

Consent cannot be freely given where there is a significant imbalance of power. For example, it would not be valid if a resident felt they would be disadvantaged if they refused.

Residents have a right to change their minds and withdraw their consent later. It must be as easy for them to withdraw consent as it was to give consent in the first place and any refusal or withdrawal of consent must be respected.

Consideration must be made about how surveillance technology may affect other people and whether their consent for its use should be sought. Surveillance technology could intrude on their privacy. For example, unintentionally recording sound or images of them.

Ways to Lessen the Impact on People's Privacy

The residents' dignity and respect must be maintained at all times, and precautions must be taken to minimise the intrusion into their privacy.

Steps to lessen the impact will depend on particular situations or risks identified through the assessments and include:

- Identifying designated staff who require and have access to the information collected.
- Changing the position of cameras or equipment, or only using them at certain times – e.g. avoid capturing intimate care.
- Finding ways to gather information that does not identify people – like statistical information from sensors rather than video.
- Supporting residents to turn off equipment at certain times.
- Following the ICO's CCTV Code of Practice and the Surveillance Camera Code of Practice, which cover the positioning and use of CCTV cameras.
- Time limited use e.g. to follow up a concern during an investigation.

A record must be kept of any privacy concerns identified and any that have not been addressed.

Equipment Choice

Surveillance technology equipment should be chosen that is appropriate for its purpose. For example, it may need to capture video at a high enough resolution that you can recognise people.

Other things to consider when choosing equipment include:

- The likelihood of needing to collect and store metadata – like date, time, and location.
- How the equipment is to be well maintained.
- Ensuring the equipment does not pose any health and safety risks.

Staff Training and Record Keeping

EFH are committed to providing staff with training so that they are knowledgeable about the correct procedures and how not to infringe on the rights of residents when surveillance technology is used to support residents.

Records must be kept showing:

- Who is responsible for operating the surveillance system
- How the information collected is maintained securely

We accept responsibility for the security of the information and only designated staff should have access to recorded information.

To protect people's information, we will make sure:

- Staff are properly trained in handling information gathered by surveillance.
- There are clear policies and procedures for when people ask for access to recordings, about sharing information and for complaints about surveillance.
- A record is maintained of who has had access to the information, when and why.
- There is a clear policy about keeping information and recordings secure, how long they will be kept, and when and how they will be destroyed.

Residents and Family Using CCTV or Surveillance: Guidance for Staff of What They Can and Cannot Do with Equipment

Family members sometimes worry about a loved one and their care. They might use hidden cameras or microphones to give themselves reassurance.

Should staff find surveillance technology in use they must put the interests of the resident first.

It is important that the resident still receives the same standard of care, even if the use of surveillance breaches a contract of service. The resident and their family should not be put at a disadvantage because they have used surveillance without informing staff and/or the organisation.

Staff should respond in the same way as to any other concern about care and escalate their concerns to the Registered Manager. If there is a concern about the safety and well-being of the resident, e.g. abuse, then this should follow the Adult Safeguarding policy and procedures.

Should staff find a surveillance device when supporting a resident they must ensure they do not:

- Deliberately damage it
- Remove it with the intention of not returning it
- Delete recordings

It would not be a criminal offence for staff to:

- Switch it off
- Remove it and keep it safe for its owner

References and further reading

<https://www.cqc.org.uk/guidance-providers/all-services/using-surveillance-your-care-service>

<https://ico.org.uk/for-organisations/guide-to-data-protection/key-dp-themes/video-surveillance/>

<https://www.cqc.org.uk/contact-us/report-concern/using-cameras-or-other-recording-equipment-check-somebodys-care>

Review date	Next Review Date
May 2024	May 2027