

Using CCTV within the workplace

The use of CCTV within the workplace has increased substantially in recent years. CCTV involves the capture and processing of personal information. Therefore, recognisable images collected are considered “Personal Data”. For that reason, CCTV usage must comply with the requirements of the Data Protection Acts 1998 & 2003. As with all aspects of Data Protection, justifying the capture and processing of such personal data is reliant on 2 key principles: **Proportionality** and **Transparency**.

Proportionality

The Data Protection Acts require that any personal information collected must be “adequate, relevant and not excessive”. It is therefore necessary to ensure you can justify the usage of CCTV within the workplace and for this you must be able to show that it is necessary to protect a legitimate aim of the employer.

Some uses can be easily justified. For example, it is easy to justify the use of CCTV to ensure the security of the property.

It will be much more difficult to justify monitoring of employees as this can be considered highly intrusive. Any justification for the monitoring of employees would have to involve reference to special circumstances (e.g. an ongoing issue that has arisen prior to the installation). Even then you would need to be able to show that the use of CCTV was a reasonable means of achieving that aim.

In addition, CCTV cameras should be placed in public areas only. The use of CCTV in areas where employees would have a reasonable expectation of privacy should generally be prohibited. This includes toilets or rest areas, including canteens. Again, any CCTV usage within these areas would have to be justified by reference to special circumstances. All efforts should be made to prevent the recording of other’s property or of passers-by.

Transparency

The use of CCTV should also be transparent to all those who will be affected by it. This involves ensuring essential information is provided where possible. This essential information should make people aware that CCTV is in use and the purpose for which it is being used. There are a number of steps that should be taken to ensure the relevant information is provided. These steps include:

- i) Introducing a CCTV policy to all employees to advise them of the CCTV and purpose for which it will be used
- ii) A sign should be placed in prominent areas to notify people of the use of CCTV. These signs should be placed at all entrances to the property and should include a contact number for anybody who has any queries

At all stages, every effort should be made to ensure people are aware of the purpose for which CCTV footage is obtained and processed.

For example, if the CCTV can be used in disciplinary proceedings, then it is necessary to ensure all employees are aware that the CCTV footage may be used in this regard. CCTV footage should never be used in a disciplinary proceeding without evidence that the employee in question was aware that CCTV could be used for this purpose.

Storage and Retention

CCTV footage should not be kept for any longer than is necessary to fulfil the purpose for which it is to be used. As a general rule, footage should not be kept for longer than 1 month, unless there is a particular requirement to hold certain footage for longer.

CCTV footage should be stored in a secure environment and access limited to authorised personnel only.

Access Requests

Any person whose image has been recorded on CCTV is entitled to make an access request under the Data Protection Acts. The application should be made in writing. A response must be provided within 40 days. A fee of up to €6.35 can be charged.

A copy of the footage requested should be provided to the person making the request in video format where possible.

Where there are other recognisable images in the footage, there is a responsibility to ensure these other images are pixelated before the footage is provided to the person requesting it, or at least ensuring the consent of these other parties has been obtained prior to releasing the footage.

Recommendations

In summary, the following steps should be taken to ensure that the use of CCTV within your workplace is fully compliant with Data Protection Requirements.

Do:

- ☒ Conduct a Risk Assessment and a Privacy Impact Assessment to determine the risks involved with using CCTV within the workplace
- ☒ Ensure a CCTV policy has been drawn up and has been provided to all employees of the company
- ☒ Keep evidence of any particular instances/incidents that give rise to your requirement to use CCTV within the workplace (e.g. ongoing health and safety issues etc.).
- ☒ Ensure clear signage has been placed at each entrance outlining that CCTV is in use and stating a contact name and number
- ☒ Ensure the purpose for which the footage is being obtained and will be used is clear to all those whose images are recorded
- ☒ Ensure there is a secure storage area for all CCTV footage and be clear on who is authorised to access the footage
- ☒ Ensure a system is in place to allow you to respond to access requests and to provide footage to the person requesting it

Don't:

- ☒ Install CCTV without ensuring people are aware of its existence and the purpose for which it is used
- ☒ Use CCTV to monitor staff unless it can be objectively justified
- ☒ Use CCTV footage within a disciplinary hearing if employees have not been made aware that this is a possibility