

GDPR- A Guide to CCTV

If you use CCTV at your premises, you must register with the Information Commissioners Office (ICO) as a 'data controller'.

What responsibilities does the licensee have for images caught on CCTV?

Under the Data Protection Act 1998 (and GDPR), the licensee is the data controller for any CCTV images caught on cameras in their premises which can be used to identify an individual. Licensees must ensure that all CCTV images that can be used to identify an individual are captured on camera, used, stored and disclosed in line with the data protection principles.

It is important that signs are displayed explaining that CCTV is in operation. Other than in exceptional circumstances any sound recording function on the CCTV system should be disabled.

When can a licensee disclose CCTV images to the police or other third party?

The Data Protection Act 1998 (and now GDPR) allows for CCTV images which can be used to identify an individual to be handed over for the prevention or detection of crime, the prosecution or apprehension of offenders or where the disclosure is required by law, for example, where an officer of the licensing authority is checking that CCTV is being used in accordance with the conditions of a particular license.

While many licensing conditions stipulate that licensees should provide CCTV images to the police "on request", the requirements of the Data Protection Act 1998 (and GDPR) are such that such disclosure should be necessary for investigating or preventing a crime or apprehending or prosecuting an offender. As such the police must be able to justify their requests for CCTV images to be disclosed to them.

Access to and the disclosure of CCTV images

Access to, and the disclosure of, CCTV images and the disclosure of images to third parties should be restricted and carefully controlled to ensure the rights of individuals are protected. The chain of evidence must remain intact if the images are required for evidential purposes. Reasons for the disclosure of the images must be compatible with the purpose for which the images were originally recorded.

1. Access to the images should be restricted only to those who need access to fulfil the purpose of the system
2. All access should be documented
3. Disclosure should be made in limited and prescribed purposes

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4. All requests for access should be recorded and reasons for any denials
5. There are procedures for allowing access or disclosure

When access to or disclosure of the images is allowed then the following should be documented:

- The date and time of access or disclosure
 - Identification of third party to whom access or disclosure is allowed
 - The reason for allowing access or disclosure
 - The extent of information to which access or disclosure is allowed
6. Recorded images should not be made widely available e.g. on an intranet site
 7. If the images are made widely available, the decision should be made by a designated person and the reasons documented
 8. If the images are disclosed to the media, the images of individuals will need to be disguised to avoid identification
 9. If the system does not have the capability to comply with standard 8 above, an editing company may be used

There are procedures if an editing company is used:

- There is a contractual relationship between the data controller and the editing company
- The editing company has given the appropriate guarantees regarding the security measures they take in relation to the images
- The designated person checks to ensure the guarantees are met
- The written contract makes it explicit that the editing company can only use the images in accordance with the instructions of the designated person
- The written contract makes the security guarantees provided by the editing company explicit

There are procedures if the media organisation receiving the images undertakes the editing (See notes under point 9 above.

Talk to an Expert

Whilst this guide sets out the basics, it cannot cover all aspects of GDPR or be used as a legal defence. In on doubt contact Hospitality Ulster's legal partners;

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