



Don't let Big Brother take over your business

In August this year, a new Code of Practice, issued under the Protection of Freedoms Act 2012, came into force regarding the use of CCTV surveillance cameras by bodies such as local authorities and the police.

Whilst this new Code doesn't yet apply to the private sector, it is more likely to be a case of when rather than if such legislation extends to it in the future. In the meantime, all operators and users of CCTV surveillance cameras are encouraged to comply with the Code on a voluntary basis (and should indeed be mindful of the need to follow the CCTV Code of Practice issued by the Information Commissioner as well).

The primary purpose of the new Code is to provide guidance for the proper use of surveillance camera systems and the use of the images and other information that they record. Secondly it aims to reassure the public that CCTV is there to protect, not to pry on them.

Campaign groups, such as the Big Brother Watch, have argued that the new Code does not go far enough since the vast majority (approx. 70 per cent) of surveillance cameras are in private control. The Code could well be extended to those in the private sector, and businesses would be wise to consider putting the 12-point Code into practice and making their staff aware of the issues around the use of recorded information.

The Code is built on 12 guiding principles which businesses who use CCTV are encouraged to adopt, which are:

1. use of a surveillance system must always be for a specified purpose which is in pursuit of a legitimate aim and necessary to meet an identified pressing need;
2. it must take into account its effect on individuals and their privacy, with regular reviews to ensure its use remains justified;
3. there must be as much transparency as possible, including a published contact point for access to information and complaints;
4. there must be clear responsibility and accountability for all surveillance camera system activities;
5. clear rules, policies and procedures must be in place before a surveillance camera system is used;
6. no more images and information should be stored than required for the stated purpose of a surveillance camera system, and such images and information should be deleted once their purposes have been satisfied;
7. access to retained images and information must be restricted and there must be clearly defined rules on who can gain access and for what purpose such access is granted; the disclosure of images and information should only take place when it is necessary for such a purpose or for law enforcement purposes;

8. operators must consider any approved operational, technical and competency standards relevant to a system and its purpose and work to meet and maintain those standards;
9. systems and information must be subject to appropriate security measures to safeguard against unauthorised access and use;
10. operators must employ effective review and audit mechanisms to ensure legal requirements, policies and standards are complied with in practice, and regular reports should be published;
11. systems must be used in the most effective way to support public safety and law enforcement with the aim of processing images and information of evidential value; and
12. any information used to support a surveillance camera system which compares against a reference database for matching purposes must be accurate and kept up to date.

Businesses can begin to put this Code into practice through a number of relatively simple steps:

- review the use of their surveillance equipment. If cameras are not contributing to public safety or security and protecting both people and property, businesses should strongly consider getting rid of them;
- place notices in areas which are being monitored, in clearly visible locations, and include a visible CCTV policy which should outline who has access to recordings and images, how long they are kept for, and how viewing requests and complaints are dealt with;
- monitor how staff members are using the surveillance equipment and bring in disciplinary action for any staff found misusing recordings;
- keep abreast of changes to legislation dealing with the use of CCTV – it is a developing area and the Government has committed to incremental changes to legislation to ensure the effective regulation of this area.

Surveillance cameras are vital tools in fighting crime and protecting the public, yet the use of recordings should never infringe upon a person's privacy. Businesses should be wary of this Code, and other elements of data protection legislation, if they wish to avoid being in breach of the law.

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This article is not intended to be a full summary of the law and advice should be sought on all issues.

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