



Policy name: Use of Overt Closed-Circuit Television System (CCTV) Policy Framework

Reference: n/a

Issue Date: 22nd November 2021

Implementation Date: 1st January 2022

Replaces the following documents (e.g. PSIs, PSOs, Custodial Service Specs) which are hereby cancelled: none

Introduces amendments to the following documents: none

Action required by:

<input checked="" type="checkbox"/>	HMPPS HQ	<input checked="" type="checkbox"/>	Governors
<input checked="" type="checkbox"/>	Public Sector Prisons	<input checked="" type="checkbox"/>	Heads of Group
<input checked="" type="checkbox"/>	Contracted Prisons	<input checked="" type="checkbox"/>	Contract Managers in Probation Trusts
<input checked="" type="checkbox"/>	Probation Service	<input type="checkbox"/>	Community Rehabilitation Companies (CRCs)
<input checked="" type="checkbox"/>	HMPPS Rehabilitation Contract Services Team	<input checked="" type="checkbox"/>	HMPPS-run Immigration Removal Centres (IRCs)
<input checked="" type="checkbox"/>	Other providers of Probation and Community Services	<input checked="" type="checkbox"/>	Under 18 Young Offender Institutions

Mandatory Actions: All groups referenced above must adhere to the Requirements section of this Policy Framework, which contains all mandatory actions.

For Information: By the implementation date Governors¹ of Public Sector Prisons and Contracted Prisons must ensure that their local procedures do not contain the following:

Governors must ensure that any new local policies that they develop because of this Policy Framework are compliant with relevant legislation, including the Public-Sector Equality Duty (s 149 Equality Act, 2010).

How will this Policy Framework be audited or monitored: Mandatory elements of this Policy Framework must be subject to local management checks. Any existing processes of regular HMPPS audits of compliance with CCTV, continue to apply under this framework.

Resource Impact: Given that this policy framework is only formalising work that is already carried out and covered by existing staff, there will be no change to benchmark staffing figures required as a result and no impact on staff resourcing.

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¹ In this document the term Governor also applies to Directors of Contracted Prisons.

Approved by OPS for publication: Sarah Coccia, Executive Director, Prisons, Ian Barrow, Executive Director, Probation, Joint Chairs, Operational Policy Sub-board, September 2021

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1. Purpose

- 1.1 The purpose of this policy is to regulate the management, operation and use of overt closed-circuit television (CCTV) systems across Her Majesty's Prison and Probation Service (HMPPS) for the prevention and detection of crime, training, safety and good management of HMPPS.

2. Evidence

- 2.1 Any CCTV already operating in HMPPS, has been installed by Ministry of Justice (MoJ) Estates. This policy is being put in place to ensure the safe and legal operation of CCTV surveillance systems within HMPPS.
- 2.2 CCTV is used to prevent and detect crime, and maintain the security, training, safety and good management of HMPPS. These systems are valuable tools which contribute to safety and security and in protecting both people and property.
- 2.3 In producing this policy, due regard has been given to the following:
- UK General Data Protection Regulation
 - Data Protection Act 2018
 - Freedom of Information Act 2000 (FOIA)
 - The Code of Practice for surveillance cameras and personal information produced by the Information Commissioner's Office
 - Prison Act 1952
 - The Prison Rules 1999
 - Protection of Freedoms Act 2012
 - The Surveillance Camera Code of Practice dated June 2013 produced by the Home Office.
 - Human Rights Act 1998: provides rights and freedoms guaranteed under the European Convention on Human Rights
 - Health and Safety at Work Act 1974
 - The Management of Health and Safety at Work Regulations 1999
 - Police and Criminal Evidence Act 1984
 - Young Offenders Institution Rules 2000

3. Outcomes

- 3.1 The objectives of the CCTV system are as follows:
- Prevention, detection and investigation of crime or disorder;
 - Apprehension and prosecution of offenders (including the use of images as evidence in criminal proceedings and internal disciplinary hearings)
 - Interest of public, employee and offender Health and Safety;
 - Protection of staff, visitors and prisoners, people in probation, people in Approved Premises and young people;
 - General good management of HMPPS, in order to safeguard the security, good order and discipline of the establishment.

4. Requirements

4.1 These requirements apply to prison establishments and probation service premises and are legal requirements.

4.2 The use of CCTV for surveillance purposes within HMPPS must be in accordance with the UK General Data Protection Regulations (UK GDPR) and the Data Protection Act 2018 (DPA). Additionally, CCTV use for surveillance purposes within the Prison Service must also be in accordance with the Prison Rules 1999 and the Young Offender Institution Rules 2000. The UK GDPR sits alongside the DPA. Article 5 of the UK GDPR sets out six key principles relating to the processing of personal data. These principles guide how personal data is used for general processing purposes. Personal data is information that relates to an identified or identifiable individual.

4.3 Article 5(1) requires that personal data shall be:

- processed lawfully, fairly and in a transparent manner in relation to individuals ('lawfulness, fairness and transparency');
- collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes ('purpose limitation');
- adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation');
- accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay ('accuracy');
- kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals ('storage limitation');
- processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures ('integrity and confidentiality')."

4.4 Article 6(1) of the UK GDPR and Part 2 of the DPA require there to be a lawful basis in order to process personal data. Art 6(1) lists six lawful purposes for which personal data can be processed which sit alongside some additional requirements set out in Part 2 of the DPA.

4.5 The six lawful purposes are listed below;

- (a) the data subject has given consent to the processing of his or her personal data for one or more specific purposes;

- (b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;
- (c) processing is necessary for compliance with a legal obligation to which the controller is subject;
- (d) processing is necessary in order to protect the vital interests of the data subject or of another natural person;
- (e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;
- (f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.

4.6 Point (f) of the first subparagraph shall not apply to processing carried out by public authorities in the performance of their tasks.

4.7 Data sharing for law enforcement purposes as defined in section 31 DPA is subject to a different regime under Part 3 of the DPA – in particular see sections 34 to 42 DPA.

4.8 The use of CCTV within HMPPS must also adhere to the Information Commissioner's Office Code of Practice for surveillance cameras and personal information.

The use of CCTV in prisoner/child accommodation where constant supervision is required under Rule 50A (YOI 54)

4.9 When CCTV is used for the constant observation of a prisoner while in a prison cell, Prison Rule 50A (YOI Rule 54) applies, which states:

4.10 Rule 50A Observation of prisoners by means of an overt closed-circuit television system

4.11 Without prejudice to his other powers to supervise the prison, prisoners and other persons in the prison, whether by use of an overt closed-circuit television system or otherwise, the governor may make arrangements for any prisoner to be placed under constant observation by means of an overt closed-circuit television system while the prisoner is in a cell or other place in the prison if he considers that—

- (a) such supervision is necessary for -
 - (i) the health and safety of the prisoner or any other person;
 - (ii) the prevention, detection, investigation or prosecution of crime; or
 - (iii) securing or maintaining prison security or good order and discipline in the prison; and
- (b) it is proportionate to what is sought to be achieved.

(2) If an overt closed-circuit television system is used for the purposes of this rule, the provisions of rules 35C and 35D shall apply to any material obtained.

YOI Rule 54 Supervision of inmates by means of an overt closed-circuit television system

4.12 54(1) Without prejudice to his powers to make arrangements for the supervision of inmates in his custody, the governor may make arrangements for any inmate to be placed under constant supervision by means of an overt closed circuit television system placed in a cell, dormitory or other place in the young offender institution if he considers that—

(a) such supervision is necessary for—

- (i) the health and safety of the inmate or any other person;
- (ii) the prevention, detection or prosecution of crime; or
- (iii) securing or maintaining security or good order and discipline in the young offender institution; and

(b) it is proportionate to what is sought to be achieved.

(2) If an overt closed-circuit television system is used for the purposes of this rule, the provisions of rules 13 and 14 shall apply to any material obtained.

The use of CCTV for quality assurance purposes

4.13 CCTV can be used for quality assurance purposes, but HMPPS must ensure that employees are given notice and made aware of the purpose of the monitoring.

Complaints

4.14 For more information on complaints, please see the guidance.

Where CCTV is sited

4.15 Both permanent and movable cameras must be placed in such a way to ensure that the only images captured are of areas that are the subject of surveillance (areas of interest will be determined by the Governing Governor or Probation Head of Service).

4.16 CCTV must not be used in areas where there is a heightened expectation of privacy.

Responsibilities - signage

4.17 People must be made aware when a surveillance system is in operation, and the reason why it is being used.

4.18 Appropriate signs must be provided to alert individuals to the use of cameras in prison and probation car parks, or areas where CCTV cameras will pick up footage.

4.19 If audio recording is in use, this must be stated explicitly and prominently, such as in visits rooms. However, audio recording cannot take place where legal visits occur. Prison Rule 38 stipulates legal visits need to be “out of hearing but in sight of an officer”. Further to this, Prison Rule 35A(2A) stipulates you cannot record legal documentation unless prior authorisation has been granted.

4.20 Signs must:

- be clearly visible and readable;
- contain details of the organisation operating the system, the purpose for using the surveillance system and who to contact about the scheme;
- include basic contact details such as a website address, telephone number or email contact for the organisation operating the system;
- be an appropriate size.

Viewing

4.21 Viewing of live images must be restricted to the operator and any other permitted person. A permitted person will be determined by the Governing Governor, Probation Head of Service or delegated officer and is limited to those who are required to be able to view footage as part of their duties. More information on permitted personnel is detailed in the guidance.

Disclosure of Information

4.22 The disclosure of information from surveillance systems must be controlled and consistent with the purpose for which the system was established.

4.23 There must be a lawful basis under Article 6 of the UK GDPR to disclose footage obtained due to the use of CCTV surveillance. And any disclosure needs to be lawful processing in accordance with Article 5 of the UK GDPR (see details in paragraph 4 above). Exemptions under the DPA may also apply which restrict the disclosure of information.

4.24 Where information sought to be disclosed is processed for law enforcement purpose, the disclosure must be lawful and fair and must comply with sections 35 – 41 of the DPA.

4.25 When disclosing surveillance images of individuals, consideration must be given as to whether the identifying features of any third parties in the image need to be pixilated by the HMPPS Pixilation Team. Where CCTV footage of a visit has been obtained, the Governor can only disclose any footage obtained where all parties to the visit consent to its disclosure. If there is a lawful basis for disclosing the footage any identifying features of third parties captured during the visit will be pixilated removing the requirement for consent.

4.26 For CCTV footage which has been obtained under Prison Rule 50A (YOI Rule 54), the disclosure of this footage must be in accordance with Prison Rule 35C (YOI Rule 13) and only disclosed where disclosure is necessary on grounds specified in rule 35A(4) (YOI Rule 11(4)) and proportionate to what is sought to be achieved by the disclosure. These grounds are detailed below:

- (a) the interests of national security;
- (b) the prevention, detection, investigation or prosecution of crime;
- (c) the interests of public safety;
- (d) securing or maintaining prison security or good order and discipline in prison;
- (e) the protection of health or morals; or
- (f) the protection of the rights and freedoms of any person.

4.27 If images are requested for evidential purposes under the Freedom of Information Act 2000 or the DPA as a Subject Access Request or otherwise, and their disclosure would not be compliant with the DPA, they will be redacted by the HMPPS Pixilation Team.

Subject Access Requests (SAR)

- 4.28 Information recorded on an individual must be provided without undue delay and in any event within one calendar month of receipt of the request.
- 4.29 Where a Subject Access Request is received for surveillance footage or other information, the individual must be provided with a copy of all the information captured by the request that constitutes their personal data only, unless an exemption applies.

Freedom of Information (FOI) Requests

- 4.30 FOI requests must be responded to promptly and in any event no later than 20 working days following date of receipt.

Storage and Retention of Information

- 4.31 Governing Governors and Probation Head of Service must ensure that information stored is secure and encrypted where necessary.
- 4.32 The DPA does not prescribe any specific minimum or maximum retention periods in relation to any footage obtained due to the use of overt CCTV surveillance. Rather, retention should reflect an organisation's purpose for recording information. The retention period should be informed by the purpose for which the information is collected and how long it is needed to achieve this purpose. It should not be kept for longer than necessary and should be the shortest period necessary for that purpose. Following a death in custody, any relevant CCTV must be retained immediately.
- 4.33 Where the continued retention of any recorded material is no longer required, it must be destroyed. An audit trail of this process must be maintained.
- 4.34 For CCTV footage which has been obtained due to its use during a visit or under Prison Rule 50A (YOI Rule 54), the retention of any footage must be in accordance with Prison Rule 35D (YOI Rule 14). Any footage obtained shall not be retained for a period longer than 3 months, beginning with the day on which the footage is obtained, unless its continued retention is necessary on grounds specified in Rule 35A(4) (YOI Rule 11(4)) and proportionate to what is sought to be achieved by the continued retention of footage. Where footage is retained for longer than 3 months, its continued retention must be reviewed every 3 months. If, on a review, or at any other time, the Governor is not satisfied that the continued retention of the footage satisfies the grounds set out in Rule 35A(4) (YOI Rule 11(4)), they shall arrange for the footage to be destroyed.

Accommodation (Safer Custody use)

- 4.35 The use of overt CCTV in prisoner/child accommodation in accordance with Rule 50A supports the safer custody process; as is the case with general CCTV usage, it must be made clear to the individual requiring support that CCTV is being used. The use of CCTV must be recorded within the ACCT document (ongoing record and Record of Case Review form) and the CCTV system must be monitored at all times.

5. Constraints

- 5.1 This policy framework only applies to the use of overt CCTV surveillance and therefore does not apply to covert surveillance. Covert surveillance is defined in paragraph 2.3 of the Covert Surveillance and property Interference Revised Code of Practice dated August 2018. It specifies that surveillance is covert if, and only if, it is carried out in a manner to ensure that any persons who are subject to surveillance are unaware that it is, or may be, taking place. Overt CCTV must not be used for covert surveillance. Please refer to the HMPPS Investigatory Powers Policy Framework for more information.
- 5.2 CCTV must not be used for the sole purpose of monitoring staff performance.

6. Guidance – please see separate guidance documents