

## **Domestic CCTV and Video Capturing Doorbell Guidance**

This guidance is for customers seeking permission to install video image capturing devices (including domestic CCTV or video image capturing doorbell) at their home.

This guidance sets out the legal requirements that Horizon customers must follow and our expectations as landlord.

### **Introduction**

There has been recent growth in affordable home video security products available to the general public. Many of the products are wireless, using home WiFi networks to capture and store information and images. Their ease of installation and use means that they offer an affordable security enhancement for tenants and residents.

Brands such as Ring, Nest and Yale sell devices which resemble traditional CCTV cameras, but also devices which locate a camera inside a doorbell. These make live and recorded images available on mobile phone or computers.

Horizon recognise that some of our tenants will feel more secure if they install CCTV in order to deter crime or if they have been experiencing anti-social behaviour. On balance there is recognised that neighbours may find a video image capturing device installed on their neighbours' home a breach of their privacy.

Please be aware that if you install video image capturing devices without our permission, or do not follow the conditions highlighted in this document regarding its installation, cost and use, then this may have legal consequences for you as a breach of your tenancy and of privacy and data protection law.

### **Use of CCTV and video image capturing devices**

Video image capturing devices can be good tools to prevent crime and ASB; however there are often cheaper and more effective options. If you are a victim of ASB we would advise you to speak to your housing officer in the first instance.

You can report anti-social behaviour to Horizon Housing through multiple channels; via our website <https://www.horizonhousing.org/contact-us/>, by email to [e-mail@horizonhousing.org](mailto:e-mail@horizonhousing.org), by phone 0330 30 30 089 or through the MyHorizon app. You can also contact Police Scotland using the non-emergency phone number 101.

### **Legal requirements**

The Information Commissioner's Office (ICO) is the UK's independent body set up to uphold information rights. The ICO tells you that if you're thinking of using a domestic CCTV system or video image capturing devices then you need to make sure you do so in a way that respects other people's privacy.

The ICO explains that if you set up your system so it only captures images within the boundary of your private domestic property (including your garden), then the data protection laws will not apply to you.

If your system captures images of people outside the boundary of your private domestic property – for example, in neighbours' homes or gardens, shared spaces, or on a public footpath or a street, then the UK General Data Protection Regulation and the Data Protection Act 2018 will apply to you. You will need to ensure your use of video image capturing devices complies with these laws.

Be aware that audio recording is very privacy-intrusive, so even if you only capture images within your own property, having audio recording enabled (especially if it picks up sound from outside your property) will often mean that the data protection laws will still apply. Generally speaking, audio recording should not be used except in limited circumstances.

If the installation of your system requires you to comply with data protection legislation and if you don't, legal action may be taken against you.

### **The UK General Data Protection Regulation (UK GDPR)**

The UK GDPR is a legal framework that sets guidelines for the collection and processing of personal information and includes seven key principles:

- Lawfulness, fairness and transparency
- Purpose limitation
- Data minimisation
- Accuracy
- Storage limitation
- Integrity and confidentiality (security)
- Accountability

### **Data Protection Act 2018**

The Act gives everyone the right to see information you captured about them, such as images of them or their car number plate. It also sets strict rules that video image capturing device operators must follow when they gather, store, and release images of individuals. There is detailed guidance available on the Information Commissioner's Office website [here](#).

### **Human Rights Act 1998**

What the video image capturing devices can view and record is very important. While it is lawful for video image capturing devices to be installed inside and outside homes for security purposes, the manner in which the device is used, in particular where the camera views area outside the boundaries of the property, may have legal consequences. Cameras being deliberately trained on a neighbour's property could amount to harassment and a breach of their fundamental human rights.

The Human Rights Act covers an individual's right to privacy. The Act implemented in the UK gives fundamental rights and freedom to everybody, this Act is based on the European Convention on Human Rights (ECHR) and in Article 8 it states that:

*“Everyone has the right to respect for their private and family life, their home and their correspondence”*

The right to respect for private and family life means that video image capturing devices should be positioned so that they only observe activities within the boundaries of a particular property and not any neighbouring property or other public areas unless necessary.

### **Is CCTV or video image capturing the right solution for me?**

Most people who choose to install video image capturing devices do so primarily to deter would-be intruders from trespassing onto or breaking into their homes. The use of video image capturing devices for domestic purposes is exempt from data protection unless you are capturing footage of individuals outside your property.

Before installing video image capturing devices you should check that its use is necessary and not disproportionate, for example:

- Do I really need a camera to address my security concerns?
- Would extra lighting or sensor lighting be as effective?
- Is there an alternative to a camera?
- Is there anyone who could advise me about alternatives?
- What is the most privacy-friendly way to set it up?
- Can I avoid intruding into my neighbours' property?

If your video image capturing devices covers, even partially, any areas beyond the boundaries of your property, such as neighbouring gardens or the street (this will include any communal areas such as shared gardens and paths), or records any audio from outside your property then it will no longer be exempt from the Data Protection Act.

### **Requesting permission if you live in a flat**

You **must** seek permission from Horizon Housing before installing video image capturing devices. Permission will only be granted in limited circumstances. This is because most, if not all, video image capturing devices for flats will capture images of communal areas. We must balance the privacy rights of our other customers and the general public whose images would be captured. |

### **Requesting permission if you live in a house**

You **must** seek permission from Horizon Housing before installing video image capturing devices. Permission will be considered when it can be demonstrated that the camera will not capture images beyond the garden of the home.

If images can be captured of public areas or any area outside of the property, then applicants must demonstrate that data protection law will be complied with and the guidance from the ICO will be met in full.

The guidance from the ICO is set out below:

- The ICO says that if you are capturing images beyond your property boundary, you should have a clear and justifiable reason for doing so. In particular, you will need to think why you need these images.

- If asked by an individual or the ICO, you will need to be able to explain your reasons.
- You should also write down why you think capturing the images is more important than invading the privacy of your neighbours and passers-by.
- Let people know you are using CCTV or image capturing device by putting up signs saying that recording is taking place, and why.
- Ensure you don't capture more footage than you need to achieve your purpose in using the system.
- Ensure the security of the footage you capture – in other words, holding it securely and making sure nobody can watch it without good reason. This extends to adequately protecting the devices used to access data such as your mobile phone.
- Only keep the footage for as long as you need it – delete it regularly, and when it is no longer needed.
- Ensure the video image capturing device is only operated in ways you intend and can't be misused for other reasons. Anyone you share your property with, such as family members who could use the equipment, needs to know the importance of not misusing it.
- You also need to make sure you respect the data protection rights of the people whose images you capture. This includes the following things:
  - Responding to subject access requests (SARs), if you receive any. Individuals have a right to access the personal data you hold about them, including identifiable images. They can ask you verbally or in writing. You must respond within one month and give them a copy of the data.
  - Deleting footage of people if they ask you to do so. You should do this within one month. You can refuse to delete it if you specifically need to keep it for a genuine legal dispute – in which case you need to tell them this, and also tell them they can challenge this in court or complain to the ICO.
  - Consider any objection you get now from particular people about capturing their image in the future. Given the nature of video image capturing devices, this may be very difficult to do. However, you should again think whether you need to record images beyond your property boundary – particularly if your system is capturing images from a neighbour's home or garden.

### **How do I seek permission to install CCTV or an image capturing device?**

Contact the Customer Service Team by telephone on 0330 30 30 089 or by email to [e-mail@horizonhousing.org](mailto:e-mail@horizonhousing.org).

### **How we will assess requests for permission**

The Housing Officer will be responsible for administering requests for permission.

As part of the process to reach a decision we may arrange a video call via Microsoft Teams or visit your home to inspect the proposed location of the video image capturing devices and clarify the reason for its installation.

All requests will be assessed on a case-by-case basis. In granting permission, the following criteria will be taken into consideration:

- The reason for the request;
- Do you live in a house or a flat?
- Will images be captured beyond the boundary of the property?
- What other action has been taken to resolve the matter?
- Support from any other agency/organisation;
- Will this be a temporary or permanent measure?
- The number of cameras being requested;
- The method of installation required;
- The dimensions of the equipment including how much it will protrude from the wall;
- The impact on the appearance of the building and the area; and
- Will all UK GDPR, Data Protection Act and Human Rights Act requirements be met

### **Conditions attached to approval**

If approval is given, any or all of the following conditions may apply:

- The installation must be carried out in accordance with the manufacturer's specification and recommendations;
- External video image capturing devices must be securely fixed on an external wall and adequate care must be taken to ensure that the fabric of the building is not damaged or altered beyond what is necessary for the proper installation of the system;
- The camera must not be able to view any neighbouring property or any surrounding public area, e.g. footpath, pavement or road etc;
- The camera must not be remotely controlled i.e. it cannot be moved left or right remotely or zoomed in or out using a controller;
- The footage must be made available to Police Scotland or a Link Housing member of staff if it is needed to help with any investigation of crime and/or anti-social behaviour.
- The video capturing device must be removed at the end of the tenancy and any damage to the property repaired.
- Any audio recording feature must be disabled

You will receive our decision in writing and a record of the decision will be recorded on Horizon's Housing's Housing Management System.

We reserve the right to review or withdraw permission should the video image capturing devices be misused or is the subject of a complaint.

Please note that you cannot fit cameras onto any street lighting columns, trees, public buildings or public fencing without written consent from the responsible authority.

### **Maintenance and costs**

If you use CCTV or other video image capturing device it will be your responsibility to:

- maintain the equipment, service it and repair it;
- pay for the equipment, installation, ongoing maintenance, servicing and running costs;
- to make good to any damage when removing the video image capturing devices, this will include to the external or internal areas of the property where the equipment was attached, cabling passed through, etc;
- pay for any damage caused by the video image capturing devices in line with our recharge policy.

We are **not** responsible for maintaining the equipment, making good any damage when the equipment is installed/removed, or for paying for running costs.

### **Will you need to put up a sign if you install CCTV?**

You are not required to put up a sign if your camera is not capturing images outside of your property including your garden. If you do capture images of a public place or outside your garden then you would need to put up a sign, however, we are unlikely to give you permission to install the video image capturing device where this is the case.

Even if you are not required by law to put up a sign, informing people they are entering an area covered by a video image capturing device it is strongly advised, and may help should a claim be made against you that you are making inappropriate use of your video image capturing devices.

### **Further guidance**

For more information about domestic CCTV or image capturing devices, please visit the Information Commissioner's Office website [here](#).

### **Making a complaint about a use of domestic CCTV or image capturing device**

If you are unhappy about the use of domestic CCTV or image capturing device, you may find it useful to use the online tool developed by the Information Commissioner's Office to find out how best to deal with your concern. You can access the online tool [here](#).