

Committee: Housing Management and Almshouses Sub-Committee	Dated: 14/10/2022
Subject: CCTV Policy Review	Public
Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?	1, 12
Does this proposal require extra revenue and/or capital spending?	N
If so, how much?	£
What is the source of Funding?	
Has this Funding Source been agreed with the Chamberlain's Department?	Y/N
Report of: Andrew Carter, Executive Director, Community and Children's Services	For Decision
Report author: Liam Gillespie, Head of Housing Management, DCCS	

Summary

The CCTV Policy was first approved in 2019 and has now been reviewed as part of the usual three-yearly cycle for most policies used by the Housing Division.

The only proposed change relates to the policy on domestic CCTV, which has been clarified in response to the growing prevalence of private CCTV and recording devices, including video-enabled doorbells. The revision is intended to allow a more pragmatic approach to such installations, which aims to balance privacy concerns and effective neighbourhood management with individuals' personal safety and security. This accords with guidance issued by the Information Commissioner's Office (ICO).

Recommendation

Members are asked to:

- Approve the revised CCTV Policy for use by the Housing Division

Main Report

Background

1. The current Closed-Circuit Television (CCTV) Policy was introduced in 2019 as part of the housing management policy review. The policy outlines our approach to the installation and management of CCTV systems on City Corporation housing estates.

2. The policy addresses the private use of CCTV by residents, which has increased in recent years due to the availability of affordable home security CCTV systems and devices with video recording capability.
3. The policy has now been reviewed and, following discussion at previous meetings of this Sub-Committee, and operational experience, the approach to private CCTV has been clarified.

Current Position

4. The 2019 policy contains a section on the private use of CCTV, by residents and commercial tenants:

11. Private CCTV and Recording Devices

We do not allow residents or commercial users to install their own CCTV to monitor areas owned or managed by the Housing Service or belonging to third parties. The presence of such cameras can intrude on the privacy of others and potentially cause people to feel harassed, which can lead to conflict between neighbours. Residents and commercial users are permitted to monitor private areas exclusively within their demise or property boundary provided that they seek any necessary permissions and do not affix apparatus to our property. When a resident or commercial user installs any camera or monitoring device without our permission, we reserve the right to take action to seek its removal. If the device is placed on or affixed to our property, we reserve the right to remove it without notice, and we may charge the resident for the cost of doing so and for repairing any damage caused to our property.

5. Householders and commercial tenants are permitted to use CCTV to monitor areas within their demise for the purposes of security and crime prevention, or personal safety. They need only request our permission to do so if they intend to affix any equipment to property belonging to the City Corporation. This includes building exteriors, which are generally not demised to individual residents under tenancies or leases.
6. The use of CCTV to monitor areas which are not included in the resident's tenancy or lease is generally prohibited at present, as this has the potential to pose an unacceptable intrusion into the privacy of others. It can also cause people to feel harassed or targeted and this can give rise to disputes between neighbours.
7. There is no legal provision explicitly prohibiting the second type of use, however there are several important legal considerations which apply:
 - Operators of CCTV capturing images outside their property become 'data controllers' for the purposes of data protection legislation and have the same obligations as any other entity which operates CCTV covering public areas. Not complying with these obligations can lead to enforcement action being taken by the Information Commissioner's Office ("ICO"), or civil action by affected individuals

- Misuse of private CCTV, for example to monitor or target individuals, or done in such a way that caused harassment to others, can amount to a criminal offence (for example, harassment)
8. Other considerations also apply to the City Corporation as a landlord. Landlords face several potential difficulties in managing the use of private CCTV. Surveillance equipment is readily available and inexpensive, meaning that its presence has grown. While most householders installing such equipment are doing so for entirely legitimate reasons, CCTV can be misused and it can lead to disputes between neighbours which are not easily resolved by landlords.

Guidance from the Information Commissioner's Office

9. The ICO provides clear guidance to householders on the use and operation of domestic CCTV systems. Where a system only captures images or other data (e.g. sound recordings) from the householder's property, the data protection principles do not apply.
10. Where a CCTV system (which the ICO says can include video doorbells) captures images outside the householder's property, they must comply with data protection laws, as they become a 'data controller' for the purposes of the Data Protection Act 2018 and the General Data Protection Regulation (GDPR).
11. In these situations, the ICO says that the householder must have a clear and justifiable reason for capturing such information and they need to take certain steps such as:
- Letting people know that recording is taking place, and why
 - Ensure that they do not capture more footage that is needed to achieve the purpose in using the system
 - Keep the footage securely
 - Only keep the footage for as long as it is needed and delete it regularly
12. The ICO also says that householders using domestic CCTV must respect the data protection rights of others, including:
- Responding to Subject Access Requests (SARs) from those whose personal information (in image form) is held
 - Deleting footage if requested
13. The guidance also states that in most cases, audio recording should be disabled as it is very privacy intrusive.
14. The ICO recommends that householders think carefully about whether CCTV is required and what else they may do instead, short of installing surveillance equipment, that might meet the same aims. They also recommend that householders consult their neighbours on their intentions and listen to any objections and complaints that they may have.

15. In most cases, the use of CCTV for domestic purposes will not give rise to any disputes but it can lead to issues between neighbours when one party believes their privacy is being infringed, or their neighbour's intentions in installing surveillance equipment are not legitimate.

Recent Legal Rulings

16. Recent court cases have discussed the private use of CCTV in cases where householders have come into dispute with others. While the use of CCTV to monitor areas outside the CCTV user's property is potentially of concern, it is not always unlawful. The interests of the householder and those of others must be balanced to decide if the use of CCTV is proportionate and legitimate in the circumstances.

17. In one recent case¹, a first instance decision, a householder who had installed CCTV cameras on his premises, which captured images from neighbouring properties and land, was found liable for harassment and breach of data protection legislation due to the manner in which the CCTV was used and because the use of one of the cameras to monitor a shared space was deemed disproportionate and not required to protect any legitimate interests of the installer (in that case, vehicle security in a shared car park).

18. Another recent ruling² in the Court of Appeal found that the private use of CCTV can be justified, even where it captures images from areas outside the property of the user, if there are legitimate reasons for its use. A victim of repeated antisocial behaviour was found to have been justified in using CCTV at her home which covered a communal pathway. The victim's interests in safeguarding her personal security following harassment were held to outweigh the right to privacy of her neighbour, who was the perpetrator of the antisocial behaviour.

19. It is clear from these examples, and from ICO guidance, that a balancing exercise has to be undertaken and that private CCTV, which monitors areas outside the user's property, may be permitted where there are legitimate reasons and the use of such CCTV is proportionate in the circumstances.

20. The Housing Division has tried to discourage private CCTV for the reasons already stated, however, exceptions have been made where there are reasons to justify it (for example, if there is a known threat to a resident's personal safety).

Proposals

21. It is therefore proposed that the CCTV Policy is clarified, to make it clear that:

- permission must always be sought before installing any CCTV device which covers an area outside a resident's property, or which is to be affixed to City Corporation property

¹ *Fairhurst v. Woodard*, Oxford County Court, October 2021, full judgment available at www.judiciary.uk

² *Molloy v. BPHA* [2021] EWCA Civ 1035

- permission may be granted if there is a legitimate reason for the CCTV and the rights of others are not unduly interfered with
- conditions can be placed on any installation and permission may be revoked if the conditions are not complied with, or there is evidence that the CCTV is being used for an illegitimate purpose. Conditions may include limiting the field of vision, disabling sound recording and allowing officers to inspect the system if requested, to ascertain its field of vision and manner of operation
- Officers will draw the applicant's attention to the guidance given by the ICO as part of any discussion about domestic CCTV installations

22. It is proposed that the CCTV Policy is approved as amended (see Appendix).

23. Requests for permission will be considered by the relevant officer (the Resident Services Officer) in consultation with the Area Manager and colleagues in the Information Team if required.

Conclusion

24. The CCTV Policy, first approved in 2019, is re-submitted for approval with one amendment (a revised section 11) relating to the private use of CCTV by residents on City Corporation estates.

25. The amendment is intended to clarify that CCTV, which monitors areas outside the resident's home, may be permitted if there is a legitimate reason to allow it and any conditions are complied with.

Appendices

- Appendix 1 – Revised CCTV Policy (version two – 2022)

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