

KILKENNY COUNTY COUNCIL
COMHAIRLE CHONTAE CHILL CHAINNIGH



**CCTV & AUDIO
RECORDING POLICY**

Adopted by Management Team on 23rd October, 2018

Introduction

Closed Circuit Television Systems (CCTV) are installed in the offices, properties, plants, car parks, civic amenity and other locations in the ownership of Kilkenny County Council, County Hall, Kilkenny and may also be used by staff when working alone.

The Council undertakes to operate its CCTV and undertakes to ensure that those who operate CCTV on its behalf do so within the terms of this policy and the law and will review it regularly to ensure continuing compliance with the Data Protection and Freedom of Information Acts and Section 38 of the Garda Síochána Act, 2005.

CCTV is installed for the purpose of enhancing the security of our premises as well as creating a mindfulness among occupants and visitors that a surveillance security system is in operation at all times. Specifically, such CCTV surveillance is intended for the purposes of:

- protecting the Council's buildings and assets, both during and after office hours;
- protecting and safeguarding the health and safety of staff, elected members, visitors and customers;
- investigating the activation of security alarms in the Council's buildings.
- reducing the incidence of crime and anti-social behaviour (including theft and vandalism);
- criminal investigations by An Garda Síochána;
- investigations carried out by other agencies in relation to incidents in the Council's buildings i.e. Health & Safety Authority, Kilkenny County Council Insurers and or legal advisors;
- assisting in identifying, apprehending and prosecuting offenders, and;
- in respect of the usage by staff of CCTV to ensure persons interacting with staff are aware that their actions are being recorded.

1. Personal Data

CCTV capture data, i.e., images of persons, which is their personal data. This confers rights for the Data subject under the Data Protection Acts. Importantly, the Council has duties and obligations as the holder of personal data, as in these cases, and must ensure such data is handled and managed correctly.

This policy document addresses these issues and sets out clearly what Kilkenny County Council, as Data Controller must do to protect personal data in relation to CCTV.

2. Private & Public CCTV

The Council operates two types of CCTV, private systems and public systems.

Private systems operate at premises such as Fire Stations and other locations where the public do not have a right of access, be it implied or express. While there may be some capture of persons passing by the front of such buildings these CCTV are considered to be private and do not need consent of the Garda Commissioner.

Public systems operate in public places such as Car Parks, at Bring Centres and other public places where the public have either an implied or express right of access. Public places may also include locations within Council offices such as main corridors where the public has access to as well as library buildings open to the public.

This policy distinguishes between private and public CCTV by noting that normally, for public CCTV, the consent of the Garda Commissioner is needed under Section 38 of the Garda Síochána Act, 2005.

The Council may also use personal recording CCTV worn on staff in the course of their duties.

This is for Health & Safety reasons and for purposes affecting their work in public.

Regardless of whether CCTV are in a private or public location, or worn by staff, this policy applies to these systems equally as do all the controls and standards as set out hereunder.

3. Video and Audio Recordings

CCTV in this policy document includes both video recording and audio recording systems.

4. Purpose of Policy

The purpose of this policy is to regulate the use of CCTV and its associated technology in the monitoring of:

A: Internal and external environs of premises under the remit of Kilkenny County Council,

B: The ongoing security of staff working alone or in handling law enforcement matters,

C: Public areas,

D: The occasional use of CCTV for covert purposes such as monitoring litter black spots,

E: Such other purposes as may arise from time to time.

5. Scope

This policy relates to the locating and use of CCTV, its monitoring, recording, security, control and use of recorded material as well as setting out the way by which persons and others can seek to see images and to ensure that CCTV is operated in a manner compatible with this policy.

6. General Principles

Kilkenny County Council has a responsibility to protect its property, equipment and other plant as well as for staff, elected members, visitors and customers to its premises. Usage of CCTV contributes to compliance with the Safety, Health and Welfare at Work Act, 2005.

The use of CCTV will be conducted in a professional, ethical and legal manner within the terms of this policy and the law. CCTV will not be used for monitoring employee performance, and information obtained in violation of this policy may not be used in any disciplinary proceeding against any employee of the Council.

Data obtained by CCTV may only be released when authorised by the Director of Services or others as designated. Requests for CCTV recordings/images/sounds from An Garda Síochána or other law enforcement agencies will be facilitated subject to proper audit trail and within the law.

CCTV monitoring of public areas for security purposes will be conducted in a manner consistent with all existing policies adopted by the Council, including Equality & Diversity Policy, Dignity at Work Policy & Procedures for dealing with complaints of Bullying & Harassment and Sexual Harassment and other relevant policies and guidelines such as those issued by the Office of the Data Commissioner.

Video monitoring of public areas and within the Council's offices, meeting rooms and premises for security purposes is limited to uses that do not violate the individual's reasonable expectation to privacy.

CCTV will not be located in areas where staff and the public would expect absolute privacy.

All CCTV and associated equipment are required to be compliant with this policy. Recognisable images captured by CCTV systems are “personal data” and subject to the provisions of the Data Protection Acts.

7. Justification for Use of CCTV

The Data Protection Acts requires that data is "adequate, relevant and not excessive" for the purpose for which it is collected. This means that the Council needs to be able to justify the obtaining and use of personal data by means of a CCTV system.

- The use of CCTV to control the perimeter of Council buildings and property for security purposes is deemed to be justified and can be used to capture images of intruders or of individuals damaging property or removing goods without authorisation.
- In other areas of offices where CCTV has been installed, e.g. hallways, stairwells, locker areas, canteens etc., these are to prevent risk to security and/or health & safety of staff.
- The use of CCTV will reduce the risk to the security, health & safety of staff, where such usage is advised to those interacting with such staff.
- The purpose of CCTV in the public areas of our buildings is to enhance security and health and safety for all users of the buildings.
- Within meeting rooms CCTV is used to ensure the security and health and safety of staff when meeting/interviewing visitors and customers.

8. Locations of Cameras

The location of cameras is a key consideration. Use of CCTV to monitor areas where individuals would have a reasonable expectation of privacy will not take place. Cameras placed to record external areas are positioned in such a way as to prevent or minimise recording of passers-by or of another person's private property.

9. CCTV and Meeting Rooms, Video and Audio Recording

Kilkenny County Council provides a number of meeting/interview rooms with CCTV. Customers, when seeking a meeting should be advised that such meetings will be held in a meeting room with a CCTV system and that it could be video and voice recorded. These rooms will display signs similar to that referred to in Section 11 above.

Customers objecting to such recording will not be met unless another member of staff is at the meeting as a witness, who will take notes and confirm with the customer the notes before the meeting concludes.

10. Audio Recordings

Kilkenny County Council may provide video and audio recording devices in meeting rooms or on designated staff directly in order to enhance staff security in carrying out their statutory duties. Signage will be provided in such rooms and staff will advise customers and others that meetings are being audio / video recorded. There may also be audio recording on any upgraded telephone system.

Audio recording will be deleted within 30 days, similar to that of video recordings in compliance with Section 12 below.

11. CCTV Video Monitoring and Recording

CCTV video monitoring and recording may include the following:

- **Protection of Council buildings and property:** The building's perimeters, entrances and exits, lobbies and corridors, special storage areas, cashier locations, receiving areas for goods/services, customer service areas and meeting rooms.
- **Monitoring of Access Control Systems:** Monitor and record restricted access areas at entrances to buildings and other areas.
- **Verification of Security Alarms:** Intrusion alarms, exit door controls, external alarms.
- **Video Patrol of Public Areas:** Parking areas, main entrance/exit gates, traffic control.
- **Criminal Investigations (carried out by An Garda Síochána):** Robbery, burglary and theft surveillance.
- **Investigations carried out by other agencies** following incidents.

12. Covert Surveillance

Kilkenny County Council may on occasion engage in covert surveillance. Such surveillance will only be required and justified where overt surveillance would merely transfer any illegal activity to some other location where CCTV is not in place or where others forms of surveillance are not feasible having regard to time or financial constraints. For example, illegal dumping at specific locations could justify covert surveillance, subject to this policy. The decision to utilise covert surveillance must be approved in advance by the relevant Director of Services. The use of covert CCTV may result in the initiation of legal proceedings.

Where An Garda Síochána requests to carry out covert surveillance in Council property, any request will be in writing.

13. Notification & Signage

Kilkenny County Council will place this policy on its Intranet for the information and adherence of staff and on its website www.kilkennycoco.ie for the information of the public.

Kilkenny County Council will ensure that adequate signage is placed at locations where CCTV camera(s) are sited, including at entrances to Council offices and property as well as advance notices indicating the use of CCTV. Signage may include the name and contact details of the Data Controller as well as the specific purpose(s) for which the CCTV camera is in place in each location.

Appropriate locations for signage may include:

- entrances to premises, i.e. external doors and entrance gates.
- reception areas/meeting rooms.
- at or close to each internal camera.

Kilkenny County Council may regularly publicise the fact that staff may use video and audio recording devices during their work. Such staff, when using such equipment, must advise persons approaching them that the interaction is being recorded by way of video and audio.

14. Storage & Retention

The Data Protection Acts state that data "*shall not be kept in a form for no longer than is necessary for the purposes for which it was obtained*". This policy provides for a retention

period of 30 days, except where the images identify an issue – such as a break-in or theft or court proceedings where such images/recordings are retained in relation to such events. This time frame complies with the guidelines issued by the Office of the Data Protection Commissioner.

The recordings, tapes, DVDs', servers etc. will be stored in secure environments with a log of access kept. Access will be restricted to authorised personnel. Supervising the access and maintenance of the CCTV System is the responsibility of the relevant Head of Section and designated staff member who has been assigned responsibility for the CCTV System and it is restricted to authorised staff.

15. Access

Access to CCTV System and data will be restricted to authorised staff only. Unauthorised access to recordings, monitors etc. will not be permitted at any time. Monitoring stations will be kept locked. A log of access to monitoring stations and tapes, servers, DVDs' etc. will be maintained.

In relevant circumstances, CCTV footage may be accessed:

- by An Garda Síochána on request in writing (including e mail) when a crime or suspected crime has taken place and/or when it is suspected that illegal/anti-social behaviour is taking place on Council property or in a public place, or
- to other statutory bodies as deemed appropriate; or if requested through the judicial process;
- to assist Kilkenny County Council for the purposes of court proceedings, for the investigation of offences or evidential purposes of by or under any other enactment.
- to assist the Director of Services in establishing facts in cases of unacceptable behaviour in or on Council property;
- to data subjects (or their legal representatives), pursuant to a valid data access request under the Data Protection Acts, where the time, date and location of the recordings is furnished to the Council;
- to individuals (or their legal representatives) subject to a Court Order.
- to the Council's insurers where it requires same in order to pursue a claim for damage done to the Council's insured property.

In the circumstances outlined above the original copy of the data must be retained by Kilkenny County Council.

16. Access Requests

Under the Data Protection Acts, on written request, any person whose image may have been recorded has a right to be given a copy of the information recorded which relates to them, provided always that such an image/recording exists, i.e. has not been deleted and provided also that an exemption/prohibition does not apply to the release.

Where the image/recording identifies another individual, those images may only be released where they can be redacted/anonymised so that other persons are not identified or identifiable.

To exercise a right of access, a data subject must make an application in writing to the Data Protection Office, Kilkenny County Council and a response will issue **within 30 days**.

Access requests can be made subject to the following:

A person should provide all the necessary information to assist the Council in locating the CCTV recorded data, such as the date, time and location of the recording. If the image is of such poor quality as not to clearly identify an individual, that image may not be considered to be personal data and may not be released by Kilkenny County Council.

In seeking such an image it will be necessary for the requester to submit their own photograph in order to ensure that it matches with that on the CCTV.

In giving a person a copy of their data, the Council may provide a still/series of still pictures, a tape or a disk with relevant images. However, other images of other individuals will be obscured before the data is released.

17. Responsibilities

The Director of Services of Corporate will:

- Assign responsibility for specific CCTV systems to a Head of Section [Grade 7/8 or equivalent],
- Ensure that the operation of CCTV is implemented in accordance with the policy set down by Kilkenny County Council,
- Oversee and co-ordinate the use of CCTV for safety and security purposes within Kilkenny County Council,
- Ensure that all existing CCTV are evaluated for compliance with this policy,
- Ensure that the CCTV monitoring by the Council is consistent with the highest standards and protections,
- Review camera locations and be responsible for the release of any information or recorded CCTV material stored in compliance with this policy,
- Ensure that a record of access (i.e. an access log) to, or the release of tapes or any material recorded or stored in the system,
- Ensure that copies of recorded material are not made without authorisation,
- Ensure that the perimeter of view from fixed location cameras conforms to this policy both internally and externally,
- Approve the location of temporary cameras to be used during special events that have particular security requirements and ensure their withdrawal following such events.
- Give consideration to staff feedback/complaints regarding possible invasion of privacy or confidentiality due to the location of a particular CCTV camera or associated equipment
- Ensure that all areas being monitored are not in breach of an expectation of the privacy of individuals and be mindful that no such infringement is likely to take place,
- Ensure that external cameras are non-intrusive in terms of their positions and views of neighbouring residential housing and comply with the principle of "Reasonable Expectation of Privacy",
- Ensure that tapes, DVDs' etc. are stored in a secure place with access by authorised personnel only,
- Ensure that images recorded on tapes/DVDs/digital recordings are stored for a period no longer than 30 days and are then erased unless required as part of a criminal investigation or court proceedings (criminal or civil) or other bona fide use as approved by the Director of Services,
- Ensure that when using a zoom facility on a camera, no invasion of privacy takes place and that such activity is logged.

- Ensure that a Privacy Impact Assessment is carried out in relation to replacement of cameras on the system.
- Authorise the release of recorded CCTV material obtained and stored in compliance with this policy following a Data Access Request.

18. **Security Companies**

The Council's CCTV if controlled by a security company contracted by the Council will comply with this policy and the following:

Kilkenny County Council will ensure that it only contracts security firms which are registered as either installers or monitors of CCTV under the Private Security Authority Act, 2004 as amended.

Kilkenny County Council will have a **written contract with the security company in place** which details the protocols to be followed, the areas to be monitored, how long data is to be stored, what the security company may do with the data, what security standards should be in place and what verification procedures apply.

The written contract will also state that the security company will give Kilkenny County Council all reasonable assistance to deal with any subject access request made under the Data Protection Acts which may be received by the Council to ensure the release by the Council, of the data within the statutory time-frame (i.e. 30 days).

Security companies that place and operate cameras on behalf of clients are considered to be "Data Processors." As data processors, they operate under the instruction of data controllers (their clients). GDPR/Data Protection Acts places a number of obligations on data processors. These include:

- Registering with the Office of the Data Protection Commissioner as a Data Processor,
- Having appropriate security measures in place to prevent unauthorised access to the data,
- Having appropriate security measures in place to prevent unauthorised alteration, disclosure or destruction of the data, including where the data processing involves the transmission of data over a network and against all unlawful forms of data processing,
- Have appropriate measures in place to ensure their staff is made aware of their obligations relating to the security of data.

This obligation can be met by having appropriate access controls to image storage or having robust encryption where remote access to live recording is permitted. Staff of the security company must be made aware of their obligations relating to the security of data.

19. **Implementation & Review**

This policy will be reviewed and evaluated from time to time. On-going review and evaluation will take cognisance of changing information or guidelines (e.g. from the Data Protection Commissioner, An Garda Síochána, audit units (internal and external), legislation and feedback from staff and others.

The date from which the policy will apply is the date of adoption by the Management Team of Kilkenny County Council with implementation of and adherence to the policy to be monitored by the Director of Services, Corporate Affairs Department.

Definitions of words/phrases used in relation to the protection of personal data and referred to in the text of the policy:

Access Request - This is where a person makes a request to the organisation for the disclosure of their personal data under the Data Protection Acts.

Audio recording - The use of equipment for recording of voice and sound.

CCTV - Closed-circuit television is the use of video cameras to transmit a signal to a specific place on a limited set of monitors. The images may then be recorded on video tape or DVD or other digital recording mechanism. It includes in this policy the recording of sound.

Data - information in a form that can be processed. It includes automated or electronic data (any information on computer or information recorded with the intention of putting it on computer) and manual data (information that is recorded as part of a relevant filing system or with the intention that it should form part of a relevant filing system).

Data Controller - a person who (either alone or with others) controls the contents and use of personal data.

Data Processing - performing any operation or set of operations on data, including:

- Obtaining, recording or keeping the data,
- Collecting, organising, storing, altering or adapting the data,
- Retrieving, consulting or using the data,
- Disclosing the data by transmitting, disseminating or otherwise making it available,
- Aligning, combining, blocking, erasing or destroying the data.

Data Processor - a person who processes personal information on behalf of a data controller, but does not include an employee of a data controller who processes such data in the course of their employment, for example, this might mean an employee of an organisation to which the data controller out-sources work. The Data Protection Acts place responsibilities on such entities in relation to their processing of the data.

Data Protection Acts - The Data Protection Acts 1988 to 2018 confer rights on individuals as well as responsibilities on those persons handling, processing, managing and controlling personal data. The Council must comply with the provisions of the Data Protection Acts and General Data Protection Regulation when collecting and storing personal information. This applies to personal information relating both to employees of the organisation and individuals who interact with the organisation

Data Subject - an individual who is the subject of personal data.

Personal Data - Data relating to a living individual who is or can be identified either from the data or from the data in conjunction with other information that is in, or is likely to come into, the possession of the data controller.