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## The Licensing (Scotland) Act 2005 The Moray Licensing Board's Guide to Deployment of CCTV in Public Spaces

### Introduction

The purpose of this document is not to replace existing legal requirements but to give some guidance as to how they may affect any particular installation. It will also give some brief technical pointers on how best to deploy a CCTV system, although any final design will be very much dependent on each individual location.

This guidance does not constitute legal advice. It is a general description that is not intended to be definitive in particular situations. If you have any queries over and above this guidance then you should seek advice from a solicitor. Please also review the general *exclusion of liability* below.

**Exclusion of Liability** - In no event does the Moray Licensing Board or the Moray Council or their employees or agents offer legal advice or accept liability of any description, including liability for negligence for any damages or losses (including, without limitation, loss of business, revenue, profits, or consequential loss) whatsoever resulting howsoever including but not limited to the use of or inability to use this information. We accept no responsibility for keeping the information in these pages up to date or liability for any failure to do so. **If you are in any doubt you must seek advice from a solicitor.**

### Legal Provisions

There are two main statutes that directly impact the deployment of CCTV.

- Private Security Industry Act (2001) (PSIA) – as amended November 2007
- Data Protection Act (1998) (DPA) – as amended 2001

### PSIA

If you operate a CCTV system in your own premises and for your own requirements then you will not need to be licensed under the PSI Act. If you use a contractor to provide and monitor a CCTV system on your behalf, they must be licensed and it will be an offence for them to operate unlicensed and for you to use them.

If you are in the business of providing and or monitoring CCTV systems as a security service to others you will need to be licensed under the PSI Act.

## **DPA**

Under this act any CCTV system which records people on a public or private space must be registered unless it meets certain criteria. Failing to do so is a criminal offence.

If you can answer yes to **all** of the following questions you will not need to be registered under the DPA

- I only have a basic system with a couple of cameras
- I cannot remotely move the cameras
- The system can only record what the cameras pick up
- I can not target the cameras in any way on to an individual
- I only provide the recorded images to the police for evidence purposes

If you are going to use the images for you own purposes e.g. to check up on a staff member doing their job properly then that person would be a focus of attention and you would be trying to learn things about them. This would require the system to be registered under the DPA.

If you remotely zoom in to an individual to see what they are doing then you will need to register under the DPA.

If you will give images to anyone other than the police you will need to register under the DPA.

If after assessing your system and its use you do not need to register it the CCTV Code of Practise still offers very good advice on ensuring your images are able to prevent or detect crimes and also to provide useful evidence.

## **CCTV Code of Practise**

Even if you do not have to be registered under the DPA many of the codes principles will ensure that your images are actually useable as evidence if required to do so.

- Signage – Suitable signs placed before the public come into an area covered by CCTV will help the system act as a deterrent. The signage should:-
  - i) be a minimum of A4 in size
  - ii) be on a yellow background
  - iii) carry a clear CCTV logo
  - iv) State what the system is for – i.e. crime detection and reduction.
  - v) Who is the owner of the system

There are many providers who can supply cheap signs that meet these criteria.

- Data Control – A log should be kept which shows clearly how the system has been operated and should contain such things as:-
  - i) Faults on the system when they occurred, when reported, when repaired, description of the fault.
  - ii) Events when they happened, what they were, who was advised, and when. This audit trail will help support the recorded evidence.
  - iii) Evidence passed to the police, officer number, officer name, date, time, what the evidence constituted, tape log numbers.
  
- Data Recording – There are several aspects to this which affect both the quality and reliability of the recorded evidence:-
  - i) Operate a clear tape numbering scheme and a rotation plan. Document it.
  - ii) Replace tapes after at most 10 uses and ensure old tapes are destroyed.
  - iii) Retain recorded images for no more than 30days before over recording and document this. Unless specifically asked by the police to retain them for evidence.
  - iv) Position cameras so that the light in the area to be covered is adequate to achieve a clear recording. Some trial and error if the system is DIY will be required to get the most and clearest coverage.
  - v) Ensure time stamps are accurate and maintained, especially after any power cut.
  - vi) If the cameras will record areas that are outside your control, especially if it's a neighbour's property advise them accordingly.
  - vii) If the system records digitally it should carry an audit trail of who has accessed what and when and should prevent editing on any image.