

Thinking about using a hidden camera or other equipment to monitor someone's care?



FEBRUARY 2015



We are the Care Quality Commission. Our job is to inspect health and social care services such as your local doctors, hospitals and care homes.

We inspect these services to make sure they give you high-quality care that is safe, effective and caring. If a service needs to improve, we will take action to make sure this happens.

When we inspect each service, we judge how good it is and we publish a report about it on our website, which includes a rating to help you understand how good your local services are.

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Who should read this information and why?



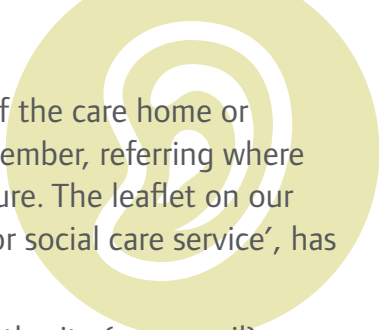
This information is for you if you are thinking about using recording equipment because you are worried about how you, or your loved one, are being looked after by a care service, such as a care home or a hospital. We hope this information will help you to understand what using equipment such as a hidden camera or sound recorder may achieve, what you can do, and who you can turn to for help.

If you have recorded information using this type of equipment, and do not feel confident that the care service is responding to your concerns, please contact us. We will discuss the best ways for you to share this information with us. You do not have to tell us who you are.

We will **always** listen to your concerns – whether or not you have information from using recording equipment.

What can I do if I am worried about someone's care?

If you are worried, the first thing you should think about is raising your concerns with the care service itself. By law, all care services must meet certain standards of care and must have a procedure for dealing efficiently with formal complaints. They should encourage people to tell them about their views and concerns. They can use this feedback to take action, such as making sure there are enough staff with the right knowledge, skills and experience to keep people safe and meet their needs.



Get in touch with the registered manager of the care home or care service or, in the NHS, a senior staff member, referring where possible to the service's complaints procedure. The leaflet on our website, 'How to complain about a health or social care service', has more details.

If the care is being paid for by your local authority (or council), you can also contact them with your concerns.

You can also contact us – our details are at back of this leaflet.

Who can I contact if my concerns are very urgent?

If your concerns are very urgent, particularly if you are worried that a child, or an adult in vulnerable circumstances (such as someone with a disability or an older person) may be being abused, harmed or neglected, you should contact your local authority's safeguarding team immediately. These teams agree how professionals, like NHS staff and the police, work together to protect people's health, wellbeing and rights. They can provide help and support in taking action. Find their contact details on your local authority's website.

If you believe that a crime has been committed, such as physical or sexual abuse, you should contact the police immediately.

What do I need to think about before using recording equipment?

Installing a hidden camera or other recording equipment is a big step, and a decision for people and families to make. On the one hand, it might set your mind at ease about any concerns you may have. Or it might help you to identify poor care or abuse. However, you should think about how it may intrude on other people's privacy, including other people who use the service, staff, families and visiting professionals.

About using recording equipment



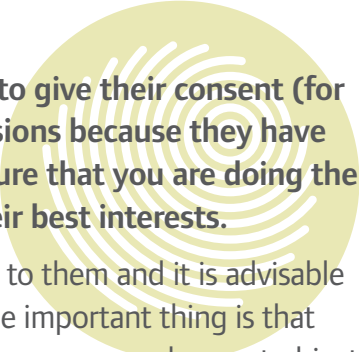
Recording equipment can be used to monitor a place, a person, a group or an activity to gather information. This can be done openly, or it can be done in secret, in which case the people being monitored are unlikely to know that they are being recorded.

People may use video cameras to do this, but there are many other options available including hidden sound-recording equipment, or motion sensors.

How will it affect people's privacy and dignity?

People receiving health and care services have the same right to privacy and dignity as everyone else. A hidden camera that captures intimate personal care affects their privacy.

You should only use recording equipment with the permission (consent) of the person whose care you are concerned about, and only in their private room.



If the person does not have the capacity to give their consent (for example, if they are unable to make decisions because they have dementia), it is important that you feel sure that you are doing the right thing – in other words, acting in their best interests.

You can get someone's consent by speaking to them and it is advisable to write down what you agree with them. The important thing is that you get their positive agreement. Just because a person does not object to something does not mean that they agree to it.

When you discuss this with the person you care about, it is a good idea to be clear on who you will share the recordings with.

Example about consent



Mary receives care in her own home and she feels vulnerable and concerned about having carers in her house. Mary's family have raised this concern with her care service. Mary's family talk to the care service about setting up a camera in her home, which she can switch on during visits from carers or at other times when she feels vulnerable. Mary is asked if she agrees to this as a way of easing her concerns. Her family explain to Mary how the system will work and who will be able to see the recordings. Mary says that she is happy with this and that she agrees to have the system installed – this means that she has given her consent.

What might the care service do?

If you tell a care service that you are worried enough to be considering using recording equipment, we would expect them to investigate your concerns. We make this clear in the information we have given to services on this subject, which you can read on our website.

Some care services have rules on recording equipment, to protect people. **Installing equipment secretly could break the contract of service, so it is important to check what the care service's policy is.**

A care service may see recording equipment as an intrusion on the privacy of people who use services, staff or visitors and may feel that they have to remove it. However, they would be committing an offence if they deliberately destroyed or damaged the equipment or refused to return it to you. Some people fear that staff may refuse to treat someone, or care for them properly, if they know that recording equipment is being used. **But it would be unacceptable for any member of staff to act in this way. And, if the service did this, you should report them to us.**

What should I do if I discover poor care in my recording?

Please contact us if your recording shows poor care or abuse and you are worried about sharing it with the service. We want you to tell us about poor care and you should share with us what you have gathered using hidden cameras or recording equipment. Please get in touch using the contact details at the back of this leaflet and we

will discuss the best ways for you to send it to us. **You will not have to tell us who you are if you do not want to.**

You may choose to take the recording first to the service, or at least describe what happened, to try and get them to act.

What will you do with my recording?

We will share your recording or photos with the CQC inspector responsible for the service. If the recording identifies a person receiving care, we will not usually share that recording with the care service without your permission or the permission of the person receiving the care, if they are able to give it. We could only do so in extreme situations, for example to protect people from the risk of serious harm.

We will consider whether the recording shows that the law has been broken in relation to the quality of care provided. If it does, we will act quickly to protect people using the service from the risk of harm, and to make sure there are improvements in the quality of care.

We will usually tell the service that concerns have been raised with us. This is to allow them to take action to improve their care, protect people and meet legal standards. However, it will not always be appropriate to tell the service that a recording exists, for example, if it might influence a police investigation or if it might put someone at risk of harm.

We might need to share your recording, or information about recordings, with local authorities, other regulators (including professional regulators), the police, and other agencies (such as the Health and Safety Executive or the Disclosure and Barring Service).

If we do need to share the recording, we will explain to you what we are doing and why (if we have your contact details). We will always carefully consider the privacy and dignity of people who have been recorded, especially people who use services. We will always consider any objections from people involved and will usually only go ahead with sharing a recording against someone's wishes if it is absolutely necessary to protect other people from the risk of serious harm.

When we receive a recording, we will not keep a copy of it unless this is necessary. If we do keep a copy, we will store it securely.

Are there legal issues to consider?

This is not a straightforward issue. Using recording equipment is likely to affect the privacy and rights of a number of people, such as other people who use the service, staff, and visitors. It is difficult to know beforehand how many people will be affected and how this will affect their privacy.

It is possible that these people may feel that if you are using recording equipment, it is affecting their human rights, or their rights under another law such as the Data Protection Act 1998. They could decide to take legal action.

We are not aware of any instances where recording equipment used by family members has been challenged legally.

Please note that this guidance is not legal advice. You might want to get your own legal advice when considering your next steps.

What can I do to reduce the legal risk and effect on people's privacy?

The circumstances are different in every case. The Information Commissioner's Office (ICO) can give advice on the Data Protection Act, but in the end it will be for you to decide whether or not to go ahead with using recording equipment. Here are some things that will reduce the legal risk and effect on people's privacy.

- Make sure that the equipment is set up in a way that avoids recording shared areas of the care service outside of your, or your loved one's, private room.
- Make sure that the equipment, and any recordings made, are only used for the purpose of monitoring and protecting your (or your loved one's) care, welfare and safety.
- Consider how long you will use the equipment for (you should not use it indefinitely).
- Think carefully about who may be recorded and the effect on others.
- Keep recordings secure and make sure that they are not tampered with or shared with anyone who does not have a good reason to see them, for example, if you use a camera that sends images over the internet, make sure that you choose a secure password and do not share it with anyone.

Information Commissioner's Office

Phone: **0303 123 1113** (local rate)

Email: **casework@ico.org.uk**

Website: **www.ico.org.uk**

Final thoughts

Using recording equipment is new for most of us. We have also published information for care services on our website that goes into more detail about using recording equipment and the relevant laws, and gives pointers to further information. We do not know of anyone who has used this equipment being taken to court as a result. However, the exact legal situation will vary in every case, so this leaflet cannot act as legal advice but hopefully gives you helpful information.

We cannot recommend whether or not you should install a camera or other equipment but we will always listen if you come to us with concerns about poor care.

We have written this information for you if you are thinking about using recording equipment because you are worried about how you, or your loved one, are being looked after. We hope it helps you to understand what using this equipment may achieve, what you can do, and who you can turn to for help.

How to contact us

Fill in our online form at:

www.cqc.org.uk/share-your-experience-finder

Email us at: enquiries@cqc.org.uk

Call our contact centre on: **03000 616161**

Write to us at:

Care Quality Commission

Citygate

Gallowgate

Newcastle upon Tyne

NE1 4PA

Please contact us if you would like this leaflet in another language or format.

CQC-275-5000-WL-022015

