



Human rights and the use of cameras and other recording equipment in health & social care: A short guide

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If we go into a public place, there is a chance that there will be a camera somewhere recording us. Having cameras in public places might make some people feel safer, others may take no notice of them, and others may find them invasive and disproportionate to the risk of crime the cameras are being used to prevent or detect. Whatever you believe, cameras and other recording equipment can impact our human rights. When we are interacting with public services, our human rights must be respected, protected, and fulfilled.

This explainer focuses on how human rights are relevant to the use of cameras and other recording equipment in health and social care settings, and in our own homes if we receive care and support there.

We have also created an Easy Read guide to cameras in health and social care and human rights. [You can read this guide here.](#)

BIHR has teamed up with the Restraint Reduction Network to produce lots of resources around surveillance and human rights. You will find links to these materials on page 8 of this guide.

Where are cameras and other recording equipment used in health and social care?

The use of cameras and other forms of recording equipment is sometimes called “surveillance”. When surveillance is being used by the state (central and local government, the NHS, the police, schools and more), staff must decide whether this needs to happen in order to support our human rights, and if it does, to ensure any surveillance is rights-respecting. You can read how our rights are protected by law in the UK below.

In a health and social care context, some examples of where cameras or other recording equipment might be used include:

- Closed-Circuit Television (CCTV) cameras in community health clinics, in hospitals, in care homes, and in people’s own homes
- Audio or video monitors (including baby monitors)
- Health and care staff wearing body cameras
- Phone calls being recorded or monitored
- Conversations in person being recorded

How are our rights protected by law in the UK?

The **Human Rights Act (HRA)** is the main law in the UK which protects our human rights. Everyone in the UK has human rights which belong to us. Our rights can never be taken away, but they can sometimes be restricted in very specific circumstances. The HRA (through the European Convention on Human Rights) applies to all 4 nations in the UK: England, Northern Ireland, Scotland, and Wales.

The BIHR website has lots of information about why the HRA matters and how it protects our rights in the UK. [Click here to find out more about how the HRA works.](#)

We have **16 rights** which are protected by the HRA. In this Explainer, we will focus on three rights which we think are most relevant to the use of cameras and other recording equipment in health and social care. These are:

- [The right to respect for private and family life, home and correspondence \(Article 8 HRA\)](#)
- [The right to be free from torture and inhuman and degrading treatment \(Article 3 HRA\)](#)
- [The right to be free from discrimination \(Article 14 HRA\)](#)

[Click here](#) to find out about all 16 rights which are protected by the HRA.

The right to respect for private and family life, home and correspondence (Article 8)

This is a very broad right which protects our wellbeing, autonomy, relationships, privacy, and communication. This is a **non-absolute** right, which means that it can be restricted by a public body in very specific circumstances. If a public body plans to use cameras or other recording equipment in a way which affects this right, it must make sure it's decision or action is:

1. **LAWFUL** – There must be a law allowing a restriction on this right. Mental health, mental capacity, or data protection laws could sometimes allow staff working in public bodies to limit our right to privacy by using CCTV or recording equipment.
2. **FOR A LEGITIMATE AIM** – There must be a good reason why cameras or other recording equipment are needed; these reasons are written in the HRA. Often a good reason to install recording equipment might be to protect our rights (for example, our [right to life](#)) or the rights of others. Sometimes cameras or other recording equipment are installed when there is no good reason for it. For example, if they are used purely for staff training purposes, or to reduce the number of staff needed, or to give someone's family members peace of mind that they are safe. It would be very difficult to argue that these reasons on their own justify restricting someone's right to privacy.
3. **PROPORTIONATE** – Public bodies must think about all the different ways in which they can achieve the legitimate aim (explained above) and choose the one which restricts our rights the least. When cameras or other recording equipment are being used, or plans are being made to use them, staff in public bodies have to make sure

they have checked that this is the least restriction option for us. You can read about how they might do this below.

[Click here](#) to find out more about our right to respect for private and family life, home and correspondence.

Not the least restrictive option: Tim & Sylvia's Story

Tim and Sylvia are a couple who had a baby together. Both of them had learning disabilities, and the Local Authority's children's social care services decided that they should move into a residential unit. This was to monitor how Tim and Sylvia were looking after the baby. There were CCTV cameras in every room of the unit, including in Tim and Sylvia's bedroom, and these were switched on 24 hours a day.

[Click here](#) to watch a video about what happened to Tim and Sylvia.

This real life story comes from BIHR's work with community groups.

Less Restrictive Options

Even if a decision to restrict our right to respect for private and family life, home and correspondence is lawful and for a legitimate aim, all possible alternatives have to be considered to check that this is the least restrictive option. Less restrictive alternatives to using cameras or other recording equipment might include:

- Enabling someone to ask for help when they need it, for example with the use of a call bell or a pendant.
- Staff checking on someone in person as often as required.
- Using a sensor which does not record but picks up movement, for example if someone is at high risk of falling and they get out of bed at night while nobody is around to support them.
- Only switching cameras or recording equipment on in certain rooms, or at certain times of day.
- Improving staff training and supervision and vetting staff more carefully, if recording equipment is being used to deter or detect abuse.
- Increasing the number of staff on shift so recording equipment doesn't have to be relied on.

In some cases, using cameras or other recording equipment may be the least restrictive option. However, because this is such a big restriction, this may need to be authorised by a court. The need for cameras or other recording equipment should be regularly reviewed to make sure it is still the least restrictive option available.

Right for some, but not right for others: Oliver's Story

Oliver, an autistic man with a learning disability, was living in supported accommodation with three other people with care and support needs. Each of them had their own room and were supported by care staff.

Oliver sometimes harmed himself, so staff decided to install a CCTV camera in his bedroom so they could help him quickly if he started doing this. The care staff thought this was a good idea which was less restrictive than having staff sit in Oliver's room with him 24 hours a day.

The staff then decided to install CCTV cameras in everyone's bedrooms, although they did not have them switched on.

Using cameras in all four people's bedrooms was not respectful of everyone's human rights, especially the right to privacy which is protected by Article 8 of the HRA. As this is a non-absolute right, it can be restricted as long as the restriction is lawful, legitimate and proportionate. For Oliver, staff thought it was legitimate and proportionate because it would cause him more distress for someone to be in his room with him at all times. This restriction was still significant and the use of CCTV in Oliver's bedroom had to be checked by a judge and reviewed regularly. However, using CCTV in the other people's bedrooms was not lawful, legitimate or proportionate so the care provider took them down.

Thank you to the [Mental Welfare Commission Scotland](#) for this real-life case study.

Making decisions about cameras and other recording equipment

Staff in public bodies have to make sure they respect our right to autonomy because this is protected by Article 8 of the HRA. Here are some of the ways staff can support our right to make decisions about recording devices:

- If cameras or other recording equipment are being used when we are interacting with health and social care services, or they may be used in future, we should be involved in conversations about this. We should be asked if we consent to them being used or not.
- If we need support to make a decision about the use of cameras or recording equipment, staff should take practical steps to help us do this. This could involve helping us understand why this is being suggested, how recording devices will work in practice, who can access the recordings, when and where they will be used.
- Using cameras or other recording equipment without telling us (sometimes known as covert surveillance) would be a significant restriction on our right to respect for private life and this would need a lot of justification for it to be rights-respecting.

Balancing rights: Peter's Story

Peter is a man in his late 40s who has cerebral palsy and a severe learning disability. He lives alone and the Local Authority has arranged for him to be supported by a team of carers at home 24 hours a day.

Peter's family were concerned that he had been abused by one of his carers. An investigation took place but this was inconclusive because Peter was unable to communicate what had happened. Peter's family wanted to make sure something like this couldn't happen again. They suggested installing CCTV in Peter's home to prevent abuse from his carers. Peter did not have capacity to decide about having CCTV in his home, so a decision had to be made in his best interests by the Local Authority.

The Local Authority thought about Peter's right to privacy (Article 8 of the HRA), and they were worried that installing CCTV in his home would be too restrictive. Because there was a disagreement about what would be best for Peter, the Local Authority asked the Court of Protection to look at Peter's situation and decide what should happen.

A judge in the Court of Protection carefully thought about the advantages and disadvantages of CCTV being used in Peter's home. They decided that although this would restrict Peter's right to privacy, which is a non-absolute right, installing CCTV would be lawful, for a legitimate aim, and the least restrictive option available at the time. However, the judge made it very clear that the use of CCTV in someone's home is a very serious matter which has to be decided on an individual basis. They said that in a lot of cases it would not be justified to use CCTV, but that in Peter's case it would improve his life overall.

Thank you to [Irwin Mitchell's Client Stories](#) for this real-life case study.

The right to be free from torture and inhuman and degrading treatment (Article 3)

This right protects us against serious physical or mental harm from a public body or their staff, whether that harm is intentional or not. The right to be free from inhuman and degrading treatment is an **absolute** right which means any treatment which is inhuman and degrading is not lawful.

When we are interacting with health and social care services, this might be because we are unwell or going through a difficult time in our lives. For some people, using cameras or other recording equipment may be helpful, for example if it means we can get support from staff quickly when we are distressed. However, for other people, being recorded by cameras or other devices while getting support from health and social care services could cause them to feel worthless, humiliated, or frightened, and their right to be free from inhuman and degrading treatment could be at risk.

[Click here](#) to find out more about our right to be free from torture and inhuman and degrading treatment.

Inhuman and degrading treatment: Alexis' Story

Alexis is autistic and was detained under the Mental Health Act. CCTV was installed in every room in her unit including her bedroom. This means that Alexis was unable to get changed or have any privacy without staff watching. Alexis was at 'arms length' observation and two staff watched her day and night. In this situation CCTV is not the least restrictive option and Alexis found the surveillance degrading.

Alexis was also transferred between hospitals. One journey took over 4 hours as the hospital was far away. Alexis was being recorded by CCTV in the ambulance. She found the CCTV intrusive, inhumane and degrading. This is because she was not allowed out of the ambulance to use the toilet and so she was recorded soiling herself. She was also in sensory overload due to the confined nature of cage and the bright light being shone overhead. This meant Alexis was being recorded in a state of distress. The use of CCTV in this instance is not least restrictive as two staff were in the back of the ambulance and were able to watch to her in the cage through an observation window. CCTV was also inhumane and degrading due to the circumstances and environment of the transfer.

Alexis Quinn, former inpatient, Restraint Reduction Network Manager and author of *Unbroken*

Organisational Abuse

A common reason for introducing recording equipment in health and social care settings, or even in someone's own home if they receive home care, is to deter and detect abuse. However, we have seen with scandals uncovering abuse in hospitals like [Winterbourne View](#) and [Whorlton Hall](#) that the use of recording devices will not always prevent staff from abusing people with care and support needs. Additionally, when abuse has been identified using recording equipment, it will only be discovered after the abuse has already taken place and the person's right to be free from inhuman and degrading treatment may have already been breached.

Of course, it is important that public bodies protect us from abuse and neglect, as this would also put our right to be free from inhuman and degrading treatment at risk. However, it is essential that public bodies consider what impact the installation of cameras or other recording devices would have on us as individuals to ensure it does not breach any of our other rights.

The right to be free from discrimination (Article 14)

The HRA protects our right not to be discriminated against in relation to any of the other human rights in the Act. This right means that we should all be able to enjoy our human rights in the same way, without discrimination.

[Click here](#) to find out more about our right to be free from discrimination.

How might this right be relevant to the use of cameras and other recording equipment in health and social care?

- Making assumptions that all people with care and support needs require a higher level of supervision. For example, people experiencing mental health issues, people with learning disabilities, or autistic people.
- Applying blanket rules about using cameras or other recording equipment in a health or social care setting without thinking about the impact on individuals. We might be in distress at the time and knowing that this is being recorded could cause us even more harm.

What can I do if I think my rights, or the rights of someone I care about, are at risk?

If you are worried that a public body or care provider is using cameras or other recording equipment in a way which does not respect your human rights, you can:

- **Identify the issue.** Think about the use of cameras or other recording equipment and what has been done wrong, how this has impacted you and who has made the decision to use this. Which human rights are at risk? Is this absolute or non-absolute? If absolute, take action straight away. If non-absolute, is the decision lawful, for a legitimate aim, and proportionate?
- **Raise the issue informally with a public official.** You could ask to have a meeting to talk about the use of cameras or other recording equipment. If you need support, you could ask friends, family, a support worker or an advocate to help you. Think about what you want to know from them, and what you want to happen next.
- **Make it formal: write a letter.** If you can't fix the problem informally, you could write a letter of complaint. [Click here](#) to get our letter template and guide from our [Know Your Human Rights](#) website.
- **Step up your action.** Contact the public official again if you need to. You could ask them to tell you why they decided to use cameras or other recording equipment in the way they did and how they have thought about their legal duties to respect and protect your human rights.
- **Take further action.**
 - Follow the internal complaints procedure.
 - Complain to the [Information Commissioners Office](#). This operates across all four UK nations.
 - Make a complaint to the Ombudsman.
 - Contact an independent care regulator to tell them what is happening. In England, this is called the [Care Quality Commission](#). In Wales, there is the [Care Inspectorate Wales](#) and the [Healthcare Inspectorate Wales](#). In Scotland, there is the [Care Inspectorate](#) and [Healthcare Improvement Scotland](#). In Northern Ireland, the health and social care regulator is called the [Regulation and Quality Improvement Authority](#).
 - Get some legal advice.

Where can I find more information?

BIHR and the [Restraint Reduction Network \(RRN\)](#) have teamed up to produce lots of helpful resources to help people know their rights and responsibilities around surveillance and human rights:

- [BIHR and RRN Joint Explainer – Surveillance: A restrictive practice and a human rights issue](#)
- [BIHR Easy Read Guide to Cameras in Health and Social Care and Human Rights](#)
- [RRN One-Page Easy Download Poster on Surveillance](#)
- [RRN Manager Alexis Quinn's blog – Surveillance and the Elephant in the Room](#)

Other organisations have also produced some resources around the use of surveillance in health and social care:

- [Care Quality Commission – Using cameras or other recording equipment to check somebody's care](#)
- [SCIE – Electronic surveillance in health and social care settings: a brief review](#)

If you are reading a printed version of this guide, you can type these websites into your browser for more information:

- www.bihr.org.uk
- restraintreductionnetwork.org

PLEASE NOTE: BIHR Explainers are provided for information purposes. These resources do not constitute legal advice. The law may have changed from the date of writing.

Did you find this BIHR Guide helpful?

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