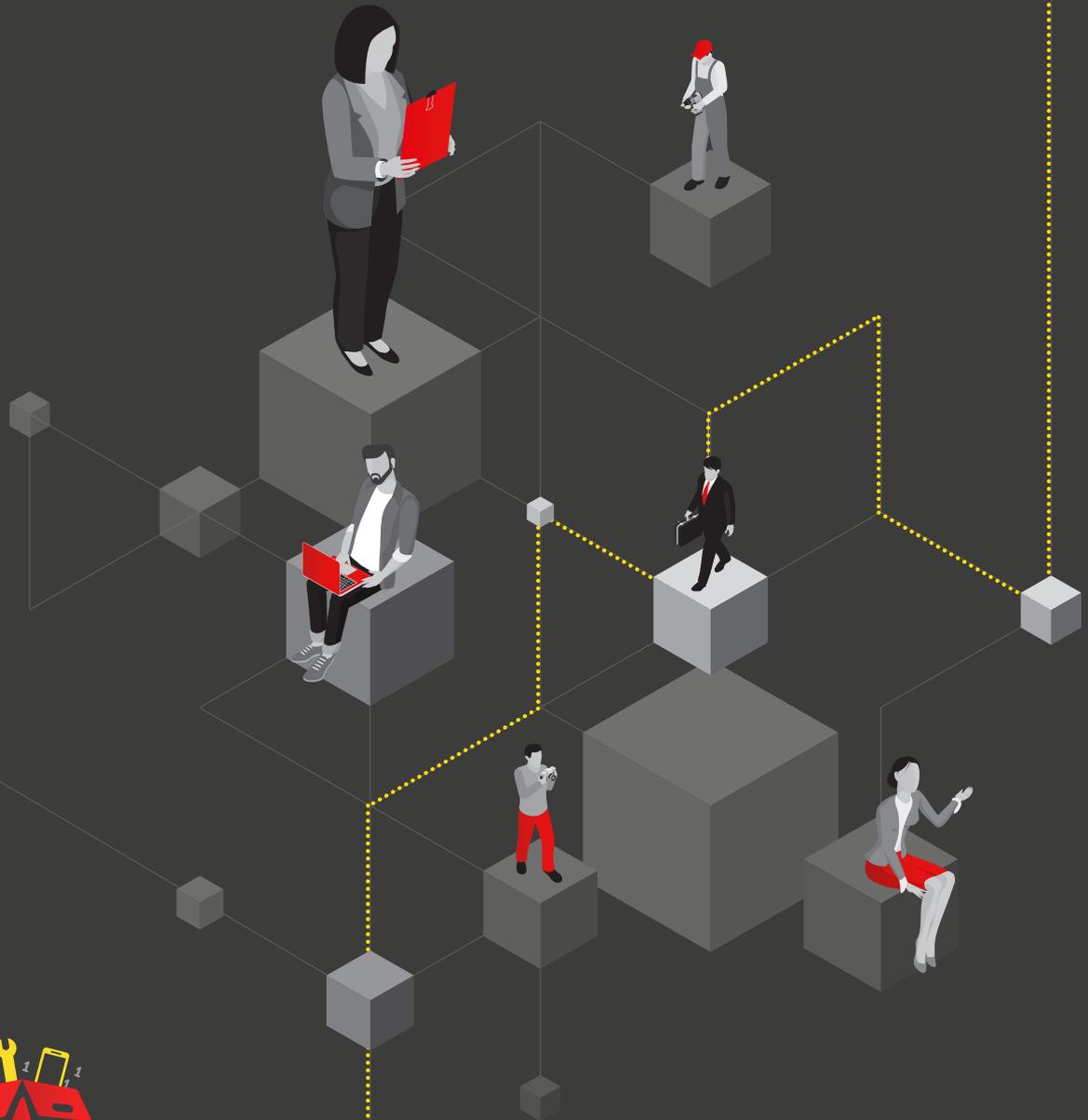




DOMESTIC

SURVEILLANCE AT HOME



digital TOOLKIT

Guidance for you

This document is purely for guidance and does not constitute legal advice or legal analysis. It is intended as a starting point only, and organisations may need to seek independent legal advice when renewing, enhancing or developing their own processes and procedures or for specific legal issues and/or questions.



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CCTV is the most privacy intrusive form of data processing undertaken presenting the greatest risk to data subjects.

- CCTV should be used only to address real and serious threats to individual health and safety or the protection of property;
- CCTV should be used only as a last resort, when other less intrusive approaches have failed.



It is important to take every reasonable measure to limit the collection of personal data from innocent people and to destroy it when it is no longer required for the original purpose.

Disclosure of video images can cause mental distress, loss of dignity, and loss of rights and freedoms for innocent people.

The awareness of being filmed by a camera will alter the behaviour of individuals and can cause discomfort or stress. In any case, the mere existence of the camera will undermine personal freedom.

Domestic CCTV Systems - Checklist for People Using CCTV Around the Home

Before installing a CCTV system or continuing with an existing CCTV surveillance system the following checklist will help you to determine whether you are required to comply with the Data Protection (Jersey) Law 2018.

The Data Protection (Jersey) Law 2018 (DPJL) sets out the rights of individuals in respect of their personal information as well as the obligations and conditions organisations must follow to process it. The collection, use, disclosure and retention of personal data, including images, film footage and voice recordings, are all subject to the requirements of the DPJL.

Depending on the location and positioning of your CCTV camera, you may need to comply with the DPJL.

Does your CCTV capture images of people outside the boundaries of your private domestic property – for example, in neighbours' homes or gardens, shared spaces or on a public footpath or a street?

NO

it records just my property – and my family.
You will not need to comply with the DPJL.

YES

you will need to meet certain requirements
of the DPJL. See next page.

FYI



Recording images of family members in a home JUST for a family purpose is not subject to the Data Protection (Jersey) Law.



Purpose of your CCTV

Is there a pressing need to install a 'surveillance' type of system?

→ *What are you trying to observe taking place and why?*

Is there any less privacy-intrusive alternative other than using a surveillance system?

→ *Have you tried those alternatives and have they failed?*

What is the specific purpose for the use of the surveillance system?

→ *Security of my property?*

→ *Personal safety?*

→ *Do you have a different purpose?*

Clarity of purpose is essential under DPJL, as it ensures everyone understands what and why you are 'collecting' identifiable personal information. PLEASE NOTE that you are required to put up a sign, in the area of the camera(s). The sign must;

→ *Be clear, visible and readable;*

→ *Contain details of the **purpose** of the surveillance and who to contact about the recording;*

→ *Include contact details such as website address, telephone number or email address.*

PLEASE NOTE



If, for example, your notice says that you are recording the footage for monitoring the alleyway between houses for security reasons you cannot then decide to publish the footage on social media just because a 'funny' thing happened. This would be unlawful and in breach of the DPJL for which there are sanctions. It would be unlawful because you would be using the footage for a different purpose than set out on your sign and people wouldn't be expecting their information to be used in this way.

How do I use CCTV responsibly at home?

- If you install CCTV for other than a purely personal or domestic purpose, you will need to **register** with the Jersey Office of the Information Commissioner and pay a fee;
- Consult with your neighbours or those individual likely to be affected with your CCTV use, to discuss your plans and what you will be doing with the footage. Address their worries and consider the impact on them;
- Consider if you really need CCTV and regularly review whether you still need it;
- Preferably disable any audio facility;
- Make sure date and time on the system are accurate.

Retention & security

- Are you keeping the images recorded only as long as absolutely required for your purposes?
- Can you delete any unnecessary footage (for example footage of people innocently walking past your property) at the earliest opportunity? You must have access to the relevant technology to do this;
- What physical security measures are in place to prevent hacking or loss of footage?



- How are you restricting access to the footage within your family? Does your whole family need access to the footage or can access be restricted to one/two family members?
- If the States of Jersey Police or insurance companies request copies of your recording – ensure they provide you with an authority form and keep a copy of what you send until the conclusion of any investigation;
- If you share the footage with the States of Jersey Police or your insurance company you must only send as much footage as is needed to support your claim (if only 5 minutes of footage is relevant, you shouldn't need to send 24hrs worth).

Individual rights

(known as 'Subject Access' Rights in DPJL)

- Are you able to respond to subject access requests? (information rights for individuals specified within the Law). You must be able to provide individuals (data subjects) with access to their own information without disclosing that of others;
- Do you have the ability to locate and provide an individual with a copy of their own information while deleting or blurring the images of others to prevent third party identification? If you cannot delete or blur the images electronically, can you provide the information in another way e.g. by providing stills/screenshots of the images captured and blanking out the faces of other individuals?

FYI



The Law in considering the sharing of CCTV images or footage is very clear about 3rd party images

If the supplying of information under Article 28 (4) requires the disclosing of information relating to another individual who can be identified from that information, the controller is not obliged to enable such information to be supplied unless –

- (a) the other individual has consented to the disclosure of the information to the person making the request; or
- (b) it is reasonable in all the circumstances to do so without the consent of the other individual.

What happens if I break the law?

- You may be subject to investigation and possible enforcement action;
- You may also be subject to legal action by affected individuals.

Background information

The Data Protection (Jersey) Law 2018 defines 'data' as meaning any information that:

- Is being processed by means of equipment operating automatically in response to instructions given for that purpose;
- Is recorded with the intention that it should be processed by means of such equipment;
- Is recorded as part of a filing system or with the intention that it should form part of a filing system;
- Is recorded information held by a scheduled public authority and does not fall into any of the above three categories.

Personal data

The Jersey Law applies to 'personal data' meaning any information relating to an identifiable, natural, living person who can be directly or indirectly identified in particular by reference to an identifier (the 'data subject').

Jersey Office of the Information Commissioner, 2nd Floor, 5 Castle Street, St Helier, Jersey JE2 3BT

Telephone number: +44 (0) 1534 716530 | **Email:** enquiries@jerseyoic.org