Covert and overt surveillance

CQC Board – 15\textsuperscript{th} October 2014
**Public guidance**

- Suggested principles for the public
- What should members of the public consider?
- Examples of when a member of the public may or may not be driven to use covert surveillance

**Provider guidance**

- Suggested principles for providers
- What should providers consider?
- Examples of when a provider may or may not use surveillance
Principles for guidance for the public

• If people are concerned about care they should talk to the provider whose responsibility it is to put things right
• We should set out what people can do if their concerns remain unresolved
• We also want people to tell CQC about their care (or that of their loved ones), particularly where providers have not responded well to those concerns
• CQC neither encourages nor discourages the use of surveillance but provides information to help people make their own decisions
• The decision as to whether or not to use surveillance is a decision for families and individuals to take
• There are other types of technology that are less intrusive than cameras and recording devices, which people might want to consider using
• CQC will use any evidence given to us to help us decide what action we should take, either ourselves or by passing it onto the police in case of criminal offences
Information for the public – what to consider

- You have a right to expect that your loved one receives care of the right quality
- The staff who are supporting and caring for your loved one should be well trained and demonstrate care and compassion in their approach
- If you have concerns about care and the provider has not resolved them, you have a number of options for next steps including PHSO, LGO, commissioners & CQC
- If you think a crime has been committed you should contact the police
- Think about privacy, dignity and human rights in relation to using recording equipment
- Consent:
  - Remember that if your loved one has capacity any decision to use surveillance is theirs to take
  - where someone lacks capacity, consider what would your loved one would want and who can make the decision
- Be aware of policies the provider may have (for example in hospitals where some policies prohibit the use of cameras)
Mr Jones (MJ) is worried about his mum living with dementia in a care home, he thinks she is being roughly handled by some of the staff.

MJ raises his concerns with the provider, Mrs Smith (MS) who promises to investigate.

MS investigates and as part of that talks to several members of staff.

One member of staff tells her that there are two member of night staff who can handle some of the residents a bit roughly at times but they have been afraid to report them.

MS suspends the night staff whilst she gathers further information.

MS finds further evidence to support these allegations and the staff are dismissed.
An example for the public – using a camera

- Mr Brown (MB) is worried about his sister who has capacity and lives in a care home for people with learning disabilities
- His sister tells him that some of the staff are treating her badly. She has talked to the manager of the home about it who doesn’t believe her
- She asks MB to install a hidden camera in her bedroom so she can prove her allegations
- MB installs the camera and video footage uncovers some of the staff being abusive
- The staff are dismissed and MB removes the camera at his sisters request
- MB sends the footage to CQC who successfully prosecute the care home for breaching regulations and rate the home ‘inadequate’
- CQC return 6 months later and find the care has significantly improved
Principles for guidance for providers

- CQC neither encourages nor discourages the use of covert or overt surveillance
- Providers must provide safe, effective, compassionate, high quality care
- They must make sure that their staff are well trained and supervised, and that they have the right values and approach to care
- They should make sure they have an open and accessible culture within their service which enables challenge and issues to be raised by people using services, their families and carers as well as staff that are addressed
- If surveillance is felt to be necessary then there are a range of technologies to consider, some of which are less intrusive than others
- If providers choose to use surveillance they must meet the requirements of the relevant legislation
- CQC will use any evidence given to us to help us decide what action we should take, either ourselves or by passing it onto the police in case of criminal offences
Guidance for providers – what to consider

- The most important thing is to ensure you provide safe, effective and compassionate care
- There is no substitute for competent, well trained staff with the right values and approach and an open culture where people can raise concerns
- The benefits of covert and overt surveillance must be weighed against the impact on privacy and other issues
- Providers should consult with people using the service, families, visitors and staff to inform their decision
- Consider completing a Privacy Impact Assessment (produced by the Information Commissioners Office)
- Transparency and openness are vital to meet legal requirements and maintain trust.
- If surveillance systems are used providers must ensure staff are trained and supported in the use of them
• The equipment must be suitable, safe and properly maintained
• Information obtained through surveillance must be kept secure and access authorised
• Where people lack capacity providers must make decisions in accordance with the Mental Capacity Act 2005
• Providers will also need to consider whether the Human Rights Act applies
• Providers must comply with the Data Protection Act and other relevant legislation. They should consider guidance produced by the Information Commissioners Office and the Surveillance Camera Commissioner
• Providers should document the steps they have taken when deciding to use surveillance as evidence may be required by CQC
• Take steps to minimise intrusion (for example where cameras are positioned, consultation with people using the service)
An example for providers – not using a camera

- Ten younger adults with physical and sensory impairments live in a care home.
- The provider is worried that staff are not engaging with them enough.
- The provider considers installing a recording device which can be activated to record conversations.
- The provider carries out an assessment to determine if this is the best mechanism for finding out if staff are engaging with people enough.
- They realise that actually it would be far less intrusive to simply ask people about their experiences of care and interactions with the care staff on a regular basis and to strengthen the management within the home.
- They keep a record of the assessment as evidence of the steps they took in reaching their decision.
An example for providers – using a camera

- In a care home for people living with advanced dementia there are several thefts from the communal lounge.
- The provider carries out an assessment which indicates that given people’s dementia the only way to identify the thief is to install a surveillance system.
- The provider decides that the prevention and detection of crime is a legitimate purpose to install a surveillance system and given the issue decides the camera needs to be covert.
- The system is installed and the provider captures footage of a member of staff stealing a resident’s handbag.
- The member of staff is reported to the police and dismissed.
- The surveillance system is taken down as it has served its purpose.