|  |  |  |  |
| --- | --- | --- | --- |
|  | **Question** | **Answer** | **Guidance** |
| 1. **IDENTIFYING A LEGITIMATE INTEREST**
 |
| **1** | What is the purpose of the processing operation | [Please insert here the reasons for the use of CCTV on the premises][To protect our legitimate business interest of protecting ourselves against criminal activity][To provide evidence in disputes between employees or with guests, e.g., grievances or complaints][To protect our legitimate business interest of ensuring compliance with health and safety regulations] | The first stage is to identify to a Legitimate Interest – what is the purpose for processing the personal data? |
| **2** | Is the processing necessary to meet one or more specific organisational objectives | [Please insert here your reasons as a business for implementing CCTV.][To deter / prevent any criminal activity occurring on the premises, ensure the safety of our guests and protect our property] | If the processing operation is required to achieve a lawful business objective, then it is likely to be legitimate for the purposes of this assessment. The focus when answeringthis question should be on your business objectives not the interests of your consumers. |
| **3** | Is the processing necessary to meet one or more specific objectives of any Third Party? | [Footage captured will not actively be shared with any third parties. It may, from time to time be shared with the authorities (Police) if required and, where requested] | For this question, a Third Party is any organisation or individual with whom you may share data with for their own purposes. While you may only need to identify one Legitimate Interest for the purposes of an LIA – the interest that you are seeking to rely on - it may be useful to list all apparent interests in the processing, those of you as the Controller, as well as those of any Third Party who are likely to have a Legitimate Interest. |
| **4** | Does the GDPR, ePrivacy Regulation or other national legislation specifically identify the processing activity as being a legitimate activity, subject to the completion of a balancing test and positive outcome? | No. | For example: Legitimate Interests might be relied on where an individual’s (including client or employee) information is processed by a group of companies for the purposes of administration (Recital 48). |
| **5** | Why is the processing activity important to the Controller? | [List the reasons why you think having CCTV in place is important][As above, the operation of CCTV will act as a deterrent to criminal activity as well as help keep guests/employees safe and protect our property.] | A Legitimate Interest may be elective or business critical; however, even if the Controller’s interest in processing personal data for a specific purpose is obvious andlegitimate, based on the objectives of the Controller, it must be a clearly articulated and communicated to the individual. |
| **6** | If applicable, why is the processing activity important to Third Parties the data may be disclosed to? | [Where the footage is shared in relation to a crime, it will be done so in the broader public interest] | A Legitimate Interest could be trivial or business critical, however, the organisation needs to be able to clearly explain what it is. Some purposes will be compelling and lend greater weight to the positive side of the balance, while others may be ancillary and may have less weight in a balancing test. Consider whether your interests relate to afundamental right, a public interest, or another type of interest. Just because the processing is central to what the organisation does, does not make it legitimate. It is the reason for the processing balanced against the potential impact on an individual's rights that is key.It is important to consider whose Legitimate Interests are being relied on. Understanding this will help inform the context of the processing. In combination with the reasonthe Personal Data is being processed; this information will determine the weight of the Legitimate Interest that needs to be balanced. |
|  |
| **1** | Is there an alternative way to achieve the objective without conducting this processing activity? | [Please list any alternatives to installing CCTV, and why you have decided not to pursue them instead. e.g., on-site security staffing might not be possible due to costs][There are currently no available alternatives that would offer the same or similar solution to the objective. The alternative is on-site security staffing, which is not an option from a cost perspective, and would be a risk for a lone worker. CCTV has proven to be an effective deterrent for criminal damage.] | • If there isn’t an alternative, then clearly the processing is necessary; or• If there is an alternative but it would requiredisproportionate effort, then the processing may still be necessary; or• If there are multiple ways of achieving the objective, then a Data Protection Impact Assessment should have identified the least intrusive means of processing the data which would be necessary |
|  |
| **1** | Would the individual expect the processing activity to take place? | [As many buildings, businesses and streets now operate with CCTV installed, it is arguable that the average individual might expect this processing to take place. However, it is feasible that some individuals (employees, guests or visitors) might not expect it to take place.][The necessary notices via signs will inform all individuals who may be affected by the processing, that it is taking place.] | If the individual would not expect the processing to take place, this could in particular override the Controller’s interests. Consider the expectations of the individual,would this processing activity be within their reasonable expectations? Have they been informed? Consider including here any evidence you may have of their expectations that this processing would occur? |
| **2** | Does the processing add value to a product or service that the individual uses? | [Processing will help ensure the safety of our guests and protect our property]  | If the processing adds value for the individual this may strengthen the case for Legitimate Interest. |
| **3** | Is the processing likely to negatively impact the individual’s interests and/or rights? | [It is unlikely that individual’s rights and interests will be directly negatively impacted by the processing, unless they do not wish to be recorded or are captured carrying out criminal activity, but this is considered proportionate.] | Consider here whether the processing could lead to discrimination, financial loss, reputational damage, loss of confidentiality or professional secrecy. Or any other economic or social disadvantage. (Please note this is notan exhaustive list). Does the processing prevent data subjects exercising control over their personal data? (See GDPR Recital 75). |
| **4** | Would the processing limit or undermine the rights of individuals? | No | If processing would undermine or frustrate the ability to exercise those rights in future that might well affect the balance. |
| **5** | Is the processing likely to result in unwarranted harm or distress to the individual? | [It is unlikely as individuals will be fully aware that CCTV is in operation] |  |
| **6** | Would unwarranted harm or distress to the individual occur if the processing did not take place? | [Due to the CCTV also being implemented as a deterrent for crime and for the safety of individuals who will be recorded, it is more likely that unwarranted harm would befall an individual if the processing did not take place.] |  |
| **7** | Would there be a prejudice to Data Controller if processing does not happen? | [If CCTV is not installed then we will have difficulty monitoring our premises and will be limited in our ability to take action in the event of criminal damage] | Would there be a negative organisational or commercial impact on the data controller if this processing were not to take place? |
| **8** | If applicable, would there be a prejudice to the Third Party if processing does not happen? | N/A | Would there be a negative organisational or commercial impact on a Third Party if this processing were not to take place? |
| **9** | Is the processing in the interests of the individual whose personal data it relates to? | [As above, individuals are provided with extra safety and security as a result of the CCTV being in place.] | Focus your response on the customer and any potential benefits of this processing. |
| **10** | Are the interests of the individual aligned with the party looking to rely on their legitimate interests for the processing? | [It is in the interests of the organisation to provide a safe and secure environment for employees and guests.] | What are the benefits to the individual or to society? If the processing is to the benefit of the individual, then it is more likely that Legitimate Interests can be relied on, asthe individual’s interests will be aligned with those of theController. Where the processing is more closely aligned with the interests of the Controller or a Third Party thanwith those of the individual, it is less likely that the interests will be balanced, and greater emphasis needs to be placed on the context of the processing and relationship with the individual. |
| **11** | What is the connection between the individual and the organisation? | [The individuals whose data will be processed as a result of this activity will likely either be an employee or a guest]  | Identify the connection:• Existing customer• Lapsed/cancelled customer• Employee or contractor• Business client• Prospect (never purchased goods or services)• Supplier• None of above |
| **12** | What is the nature of the data to be processed? Does data of this nature have any special protections underGDPR? | Images of individuals caught on CCTV may result in the collection of information which reveals an individual’s health, race, or religion but such collection will be incidental and is not deliberately processed. CCTV footage may collect images of children.] [The data captured will be videos of employees/guests around the premises.] | What types of personal data are being processed e.g. contact data, financial details etc.? Is it data relating to a child? If processing Special Categories of Personal Data, an Article 9 condition must be identified in addition to a lawful basis under Article 6. |
| **13** | Is there a two-way relationship in place between the organisation and the individual whose personal information is going to be processed? If so how close is that relationship? | [There is an ongoing relationship between employer/employee where individuals will be given fair notice of the CCTV being in operation.][The relationship between us and our guests is a contractual one, there is no relationship with other members of the public/visitors who may be caught by cameras.] | Where there is an ongoing relationship, or indeed a more formal relationship, there may well be a greater expectation on the part of the individual that their information will be processed by the organisation. The opposite is also possible, but it does depend on the purpose of processing.Consider the nature of the relationship, is it:• Ongoing• Periodic• One-off• No relationship, or relationship has effectively ceased |
| **14** | Has the personal information been obtained directly from the individual, or obtained indirectly? | [The personal information of any individual will be captured indirectly through the CCTV cameras.] | Consider whether personal information has been collected:• Directly• Indirectly• A mix of bothIf the information was obtained directly from the individual then you should take due consideration of the Fair Processing Notice, the relationship with the individual and their expectations of use. If the data was collecteddirectly and these factors are positive, then it may tip the balance in favour of the processing operation. Where Personal Data is not collected directly, there may need to be a more compelling Legitimate Interest to overcome this. It will also depend on the context of the processing and if the organisation has a two-way relationship with the individual. |
| **15** | Is there any imbalance in who holds the power between the organisation and the individual? | [Yes in the case of employees, however no with regards to guests.]  | If the organisation has a dominant position, this places more responsibility on the Controller to ensure that the interests and rights of the individual are protected. TheController will need to consider how it addresses any imbalance of power to ensure individuals’ rights are not impacted. |
| **16** | Is it likely that the individual may expect their information to be used for this purpose? | [As many buildings, businesses and streets now operate with CCTV installed, it is reasonable to suggest that it may be expected.]  | • Yes• No• Not sureGiven the relationship between the parties,services/products being provided, including theinformation notices available, would the individual reasonably expect or anticipate that their information would be used for those or connected purposes? The stronger the expectation, the greater the chances that Legitimate Interests can be relied on. |
| **17** | Could the processing be considered intrusive or inappropriate? In particular, could it be perceived as such by the individual or in the context of the relationship? | [Some individuals may consider CCTV as intrusive. The cameras are being erected in specific areas to ensure that they do not intrude unnecessarily on any individuals.][Our CCTV policy sets out the purposes for which our surveillance systems collect data and how we process this.] [No covert surveillance systems will be in place.] [Signs will be erected and our privacy notice for guests / employees will be updated] | Processing should not be unduly intrusive - intrusion into the private life of an individual may be justified based on the nature of the relationship or special circumstances. However, the greater the intrusion, perceived or otherwise, the more overwhelming the Legitimate Interest should be and the more the rights of the individual must be considered within the balance.Consider here the way the data is processed (e.g., large scale, data mining, profiling, disclosure to a large number of people or publication). |
| **18** | Is a Fair Processing Notice provided to the individual, if so, how? Are they sufficiently clear and up front regarding the purposes of the processing? | [Employees and guests will be sufficiently notified of the processing via signs and privacy notices][Signs will be visible for members of the public who we have no direct contact with.] | Remember that the more unusual, unexpected, or intrusive the processing, the greater the importance of making the individual aware of the processing. Particularly where Legitimate Interests are to be relied on. |
| **19** | Can the individual, whose data is being processed, control the processing activity or object to it easily? | [Signs will be put up to ensure all individuals are aware that the activity is taking place whilst they are within the vicinity of the premises.] [It is difficult for an individual to have control over the whole of the video captured. The CCTV signs will contain contact details for an appointed person who the individual can contact regarding the use of CCTV on the property regarding the exercise of their data rights (subject access requests, etc).] | • Yes (cover how you do this in the next section on “Mitigation and Compensating Controls”)• No• PartlyGiving the individual increased control or elements of control may help a Controller rely on Legitimate Interests where otherwise they could not. If individual control is not possible or not appropriate, explain why. |
| **20** | Can the scope of the processing be modified to reduce/mitigate any underlying privacy risks or harms? | [Insert here any actions you will carry out to protect the privacy of individuals, e.g., blurring of images][No audio will collected.][If the data captured needs to be shared with a third party for any reason, all efforts will be made to protect the privacy of unconnected individuals (i.e., blurring of images)] | If yes (cover how you intend to do this in the next section “Mitigation and Compensating Controls”This is a similar concept to a Data Protection Impact Assessment. Where a DPIA might identify potential privacy harms it also allows the organisation to mitigate the risk ofnon-compliance by adapting or altering the scope of the activity. The same is true for an LIA. If you conclude that the processing presents a privacy risk to the individual, theprocessing can be limited or adapted to reduce the potential impact. |
| 1. **SAFEGUARDS AND COMPENSATING CONTROLS**
 |
|  | **Safeguards** include a range of compensating controls or measures which may be put in place to protect the individual, or to reduce any risks or potentially negative impacts of processing. These are likely to have been identified via a Privacy Impact Assessment conducted in relation to the proposed activity. For example: data minimisation, de-identification, technical and organisational measures, privacy by design, adding extra transparency, additional layers of encryption, multi-factor authentication, retention, restricted access, opt-out options., hashing, salting, and other technical security methods used to protect data. |
| **1** | What safeguards are in place? | [Notices will be placed where surveillance systems are operation.][A Privacy Impact Assessment has been conducted in relation to the proposed activity.][Privacy policies will be updated and a CCTV policy put in place.][Data will be encrypted and stored securely and only reviewed where absolutely necessary, limiting the amount of people who may interact with it. Data will be deleted after [INSERT NUMBER] days.] | Please include a description of any compensating controls that are already in place, or will be put in place, to preserve the rights of the individual. |
| **2**  | Will any further safeguards be put in place? | [Only where required upon review of the activity.] |  |
| 1. **REACHING A DECISION AND DOCUMENTING THE OUTCOME**
 |
|  | **Outcome of Assessment** |  |  |
|  | [Please provide here a summary of the assessment and its outcome, including any measures being taken to minimise risks] |  |
| **Signed by:** | **Role:** |  |
| **Dated:** |  |  |
| **Review date:** |  |  |

***Please Note:***

*This document is provided in a template format and it is your responsibility to ensure that it is properly completed and implemented. Stephens Scown LLP are not liable for any failure to correctly complete or implement this template document. We have included some examples, however it is your responsibility to decide whether or not they are applicable to your circumstances.*