

BCCM Fact Sheet | Video surveillance

Closed Circuit Television (CCTV) surveillance in a body corporate

Either a body corporate or an owner may wish to install CCTV in a community titles scheme. Naturally this may raise questions about body corporate and owner responsibility, as well as concerns about recording and privacy. Legal advice may be required.

Laws in Queensland

With the exception of the *Body Corporate and Community Management Act 1997* (the Act) providing that “an occupier of a lot must not cause a nuisance in certain circumstances”, the body corporate legislation does not specifically provide for issues pertaining to CCTV surveillance in a body corporate. That said, if a body corporate sets up CCTV surveillance on common property, it has a legislative obligation under the Act to do so reasonably and in compliance with legislative requirements.

In Queensland, it is not illegal for someone to video you or your home, unless:

- they trespass on your land to do so (Summary Offences Act 2005, Section 11 – Trespass);
- they are videoing your private body parts or activities;
- they are recording a private conversation without your permission; or
- it amounts to stalking or domestic violence (Criminal Code Act 1899, Section 359A-F – Unlawful Stalking and Domestic and Family Violence Protection Act 2012, Sections 177-179 – Offences).

Recording private body parts and activities

If someone is in a private place, or doing a private act in circumstances where they would reasonably expect privacy, it is a criminal offence to film them without their consent. Private acts may include things like undressing, using the toilet, showering, bathing, or being intimate in a place where a person would reasonably expect privacy. It is also a criminal offence to film body parts without someone’s permission (this includes where underwear is covering their private body parts). (Criminal Code Act 1899, Section 227A – Observations on Recordings in Breach of Privacy)

Recording private conversations

In Queensland a person is not permitted to record private conversations that they are not involved in. If CCTV surveillance is likely to capture a private conversation, the audio part of the recording system should be disabled and the surveillance equipment should be positioned to avoid the conversation being lip-readable. (Invasion of Privacy Act 1971, Sec 43 – Prohibition on use of listening devices. Sections 44 and 45 also relate to offences.)



CCTV surveillance must not cause a nuisance

The Act provides that the occupier of a lot included in a community titles scheme must not use or permit the use of the lot or common property in a way that causes a nuisance or interferes unreasonably with the use or enjoyment of another lot or the common property included in the scheme. Lot owners therefore have a responsibility to ensure that if they are allowed to install CCTV equipment on their property, it does not interfere with another lot owner's use and enjoyment of their lot or common property.

Record keeping requirements

While body corporate legislation does not specifically make mention of video footage, adjudicators have made orders where footage from CCTV that is operated by the body corporate is a body corporate record. One such order is [Xanadu- \[2015\] QBCCMCmr 381](#).

Bodies corporate should be aware of both the potential for footage to be a record and of the recordkeeping requirements under the Act and consider how they will manage these requirements if they are considering installing CCTV.

More information about [record keeping](#) can be found on our website.

In addition to the record-keeping requirements, there may be other requirements about who is able to install the CCTV. Again, bodies corporate should make their own, appropriate enquiries about this prior to any installation.

Reasonable camera placement

When positioning CCTV cameras for surveillance purposes, the person positioning the cameras should consider the primary purpose of the surveillance. Security is the primary purpose of most surveillance, so cameras should be installed to maximise:

- coverage of the main entrances and exits to the area under surveillance;
- any special 'target' areas (e.g. walls that are often vandalised, or rooms containing valuables); and
- the opportunity to identify any offenders (e.g. to easily see their facial features, height, or vehicle registration).

Cameras within easy reach can become targets for vandals, so placing cameras out of harm's way is important. To ensure the correct exposure of an image, controlling the camera's environment is also often necessary.

Cameras should not be placed to maximise opportunities to 'spy on' residents or their guests, but should be positioned for legitimate, reasonable, purposes only.

If an owner or occupier in a scheme can demonstrate that a body corporate's decision to install a camera in a place, or facing a particular location, is unreasonable, they may be able to dispute it.

Before doing so, it is a legislated requirement for the owner or occupier to make reasonable efforts to resolve the issue themselves with the body corporate before lodging an application with the Office of the Commissioner for Body Corporate and Community Management.

Important information

This fact sheet has been prepared in cooperation with the Queensland Police Service. If you would like to report a non-urgent crime or incident, or for general enquiries, go to [Policelink online reporting](#) for select report types, or phone Policelink on 131 444.

The Office of the Commissioner for Body Corporate and Community Management (BCCM office) provides information on the *Body Corporate and Community Management Act 1997* (BCCM Act). More information can be found on our website at www.qld.gov.au/bodycorporate.

You can also contact our Information and Community Education Unit on 1800 060 119 or in writing at www.qld.gov.au/bodycorporatequestion.

