

Electronic monitoring factsheet – Information for individuals, their families and carers

The Office of the Public Advocate is established under the *Guardianship and Administration Act 2000 (Qld)*.

Our role is to monitor the systems supporting adults who have a disability, mental illness or another condition (such as dementia) that may lead to a person needing help to make decisions.

We also provide information to government about how these systems could be improved.

Although we do not work directly with individuals, we do consider the way that things impact people at an individual level.

We are committed to making sure that people who need help to make decisions are protected and that they get the support they need to have the same rights, interests and opportunities as other people in the community.

This factsheet contains information for people with disability, and their families and carers, about the use of electronic monitoring to collect information about a person.

Information for organisations and support workers using electronic monitoring can be found in the related factsheet: *Electronic monitoring factsheet – Supported accommodation providers and support staff*.

What is electronic monitoring?

Electronic monitoring is when someone uses an electronic device to collect information about a person, or where they plan to collect information about a person.

There are many ways that this might happen but usually people will use video cameras or still cameras to watch what people are doing, and baby monitors or intercoms to listen to people.

How is electronic monitoring used?

Electronic monitoring is sometimes used in homes for people with disability or in residential aged care to look after the people who live there better. Staff may use electronic monitoring to help them to check on residents who have health issues or prevent accidents from happening.

What is 'personal information'?

Personal information is any information about a person that would help others to work out who they are. This includes photos of them, recordings of their voice, details about where they are or what they do online, or records of things that they have said or done. Information is still personal information even if it is not stored or recorded, or even if it is not true.

Electronic monitoring, through either video or audio monitoring or a combination of both, captures the personal information of residents, and often the personal information of their families and carers.

What are my rights?

Every person has the right to privacy, no matter where they live or if they need support to live there.

In Queensland, the privacy of an individual's personal information, when held by the Queensland government, is protected by the *Information Privacy Act 2009*.

This Act also applies to organisations that the State Government contracts with to support people to live in the community. If an organisation uses electronic monitoring, the Act says that they must follow a number of rules. Organisations must:

- Only use electronic monitoring where, when and as much as they need to for the purpose that they say they are using it for;
- Keep personal information about the person secure by not giving it to others unless they have to do so by law;
- Make sure that monitors cannot be seen or overheard by visitors, other residents or guests;
- Make people generally aware about the use of electronic monitoring, for example, by placing a notice on the wall near the electronic monitoring equipment;
- If a recording is kept, give the person a copy if they ask for it; and
- Regularly check whether electronic monitoring is still needed.

As well as these rules, it is best practice if the organisation:

- Talks to the person about why they are being monitored;
- Explains why the organisation thinks the person needs to be monitored;
- Asks the person, or a family member or guardian, if they are okay with being monitored; and
- Tells people when monitoring is occurring.

Do these rules apply to all providers of supported accommodation?

No. The rules only apply to government agencies (such as the Department of Communities, Child Safety and Disability Services) and organisations that get funding from them.

Organisations that get funding from the Commonwealth Government and large private companies need to follow rules under the *Commonwealth Privacy Act 1988*. Some small private companies may also need to follow these rules. These rules are generally similar to the rules under Queensland's *Information Privacy Act 2009*.

If I think that electronic monitoring isn't being used properly, what can I do?

If you do not think that the organisation is doing the right thing, you can complain.

You should first tell the organisation about the things that are worrying you. The organisation should have a system in place to check if the rules that protect personal information have been broken and make changes if needed.

If you have talked to the organisation but you still think they are not doing the right thing, you can also complain to the government department that funds them.

If the organisation is funded by the Queensland government (like most accommodation support for people with disability), you can also contact the Office of the Information Commissioner by:

Phone: 1800 OIC QLD (1800 642 753) or (07) 3234 7373

Email: enquiries@oic.qld.gov.au

Mail: PO Box 10143, Adelaide Street, Brisbane Queensland 4000

If the organisation is funded by the Commonwealth (this includes most residential aged care facilities and nursing homes), you can also contact the Office of the Australian Information Commissioner by:

Online: <http://www.oaic.gov.au/privacy/making-a-privacy-complaint>

Phone: 1300 363 992

Mail: GPO Box 5218, Sydney NSW 2001

Email: enquiries@oaic.gov.au

Where do I go if I have questions?

Queensland's Office of the Information Commissioner can answer questions about information privacy and the collection and handling of personal information (including the use of electronic monitoring) by Queensland government agencies and the organisations that they contract with to provide services.

Further resources

Office of the Public Advocate – *Inquiry into the use of electronic monitoring at disability accommodation sites in Queensland*
http://www.justice.qld.gov.au/_data/assets/pdf_file/0007/258361/emi-report.pdf

Queensland Office of the Information Commissioner website:
<http://www.oic.qld.gov.au/>

Office of the Australian Information Commissioner website:
<http://www.oaic.gov.au/>

Queensland Ombudsman – Make your complaint count brochure:
http://www.ombudsman.qld.gov.au/Portals/0/docs/Publications/Brochures/Make_Your_Complaint_Count_web_V1.pdf

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