

Case study

Mental Welfare Commission Scotland: Use of CCTV in health and social care settings

The Mental Welfare Commission for Scotland (MWCS) visited a man with learning disabilities and autism. He was living in a staffed community setting with three other residents. Each had their own room. Because of a history of self-harm, staff had placed a closed-circuit television camera (CCTV) in his bedroom. This was to check that he was not harming himself. Staff had thought this was acceptable, so they placed CCTV cameras in all the residents' bedrooms, although did not have them switched on.

The use of CCTV in this way was a significant interference with Article 8 of the ECHR, the right to respect for privacy. It must be lawful, necessary and a proportionate response. In the man's case, it was arguable that it was necessary and proportionate. The alternative of having a member of staff with him at all times could have caused him more distress. However, the interference was such that the MWCS considered it needed authorisation by a court. In Scotland, welfare guardianship is the appropriate mechanism. This allows a Sheriff to consider whether or not an action is in line with human rights legislation.

The outcome was that the Sheriff granted the power. This made sure the individual's rights were protected and the staff were acting lawfully. However, placing CCTV cameras in all rooms was a disproportionate and probably unlawful interference with privacy, even if they were not activated. The care provider took them down. As a result of this case, the MWCS, Care Inspectorate and Scottish Human Rights Commission issued a [joint statement on the use of CCTV](#).