



Office of the Information Commissioner  
Queensland

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## Information Sheet

### Camera surveillance, video, and audio recording – a community guide

The Queensland Office of the Information Commissioner (OIC) only deals with the privacy laws that apply to Queensland Government. However, the OIC Enquiries Service receives a significant number of enquiries from the public about the private use of audio and video recording devices, particularly the use of residential video surveillance cameras. Given the high level of interest, OIC has developed this information sheet to help the public understand their privacy rights and obligations in this area.

#### Note

If you are outside Queensland, you may wish to contact the Attorney-General's Department in your State or Territory for more information on relevant laws. If you have questions about an entity covered by the Commonwealth *Privacy Act 1988* (eg large companies, private healthcare providers, Federal government agencies) contact the [Office of the Australian Information Commissioner](https://www.oaic.gov.au) (OAIC) Enquiries Service on 1300 363 992 or [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au).

## Camera surveillance

### Installing cameras

Regardless of why you are installing surveillance cameras at your home or business<sup>1</sup>, there are Queensland laws that may apply<sup>2</sup>.

### The Queensland Criminal Code

Section 227A of the Criminal Code makes it an offence to video record people without their consent in places where they would expect to be private, such as a bedroom, bathroom, or changeroom.

When installing surveillance cameras it is important to assess how they are positioned. Installing your cameras in a way that breaches the Criminal Code may result in prosecution, and generally it is a good idea to minimise their impact on neighbouring properties.

Neighbours, particularly neighbours with young children and/or pools, often feel as if their privacy has been invaded if they are recorded by the cameras. In some cases they may escalate these issues to the Queensland Police Service (QPS).

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<sup>1</sup> If your business is covered by the *Privacy Act 1988* (Cth) the cameras must also comply with the APPs in that Act.

<sup>2</sup> <https://www.alrc.gov.au/publication/serious-invasions-of-privacy-in-the-digital-era-dp-80/3-overview-of-current-law/surveillance-laws-and-laws-affecting-photography/>



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### Complaints about cameras

If you have a complaint about the positioning of a neighbour's surveillance camera the best first step is to talk to the property owner. If you are unable to resolve the matter directly you could talk to a community mediation service to see if they can assist both parties in mediating the matter.<sup>3</sup>

If you believe someone is in breach of the Criminal Code due to the positioning of the cameras, you should contact the QPS to discuss your concerns.

### Body Corporates

If your property is part of a body corporate then exterior camera installation must comply with body corporate and community management obligations<sup>4</sup>. Approval to install exterior surveillance cameras may be required from the Body Corporate Committee. Property owners may be in breach of the *Body Corporate and Community Management Act 1997* if the use of surveillance cameras causes a nuisance to common property.

If you believe cameras have been installed without approval or are causing a nuisance, you can make a complaint to the Body Corporate manager. The Body Corporate and Community Management Commission<sup>5</sup> can provide more information.

### Drones

The use of unmanned flying aircraft has increased in popularity and many drones have the capacity to capture visual and audio recordings. The Australian Government Civil and Aviation Authority (CASA) website has information about the rules on using drones for recreational and commercial purposes.<sup>6</sup> If you believe a drone is not being operated according to the CASA rules, or is otherwise being operated in an unsafe manner, you can make a complaint to CASA.<sup>7</sup>

If drones are operated by State or Federal government, they may also be subject to State or Federal privacy laws.

### Audio and telephone recording

Generally, it is lawful to record a spoken conversation if the person recording the conversation is part of it, and neither the consent nor knowledge of the other parties to the conversation is required. However, there are laws that apply to what can be done with the recording, and to recording spoken conversations you are not part of.

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<sup>3</sup> This link may contain helpful information about mediation : <https://www.qld.gov.au/law/legal-mediation-and-justice-of-the-peace/settling-disputes-out-of-court/neighbourhood-mediation>

<sup>4</sup> <https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/maintenance/improvements>

<sup>5</sup> you may find some helpful resources on their website: <https://www.qld.gov.au/law/housing-and-neighbours/body-corporate>

<sup>6</sup> <https://www.casa.gov.au/drones>

<sup>7</sup> If you wish to speak to someone at CASA about the situation, they can be contacted on: 131 757 or 02 6217 1111.



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### Invasion of Privacy Act

The *Invasion of Privacy Act 1971* (Qld) (**IoP Act**) makes it an offence to *audio record* a private conversation you are **not** involved in. A person is *involved in* a conversation if they are part of it, for example, having a face to face or phone conversation with someone or involved in a group discussion.

If you are involved in the conversation, the IoP Act allows you to record it, but there are restrictions on how the audio recording can be used. For example, the IoP Act prohibits communication or publication of the recording, but makes an exception for specific circumstances, including allowing it to be published or communicated:

- to another person who was part of the conversation
- not more than is reasonably necessary in the public interest
- not more than is reasonably necessary to protect the interest of the person who made the recording; and
- in the course of legal proceedings.

It may be necessary to seek legal advice to determine if an audio recording can be used.<sup>8</sup>

#### Note

The *Invasion of Privacy Act 1971* will apply to surveillance cameras and drones if they also have audio recording functions.

If you believe someone is in violation of the IoP Act you could contact the QPS to discuss the matter.<sup>9</sup>

### Telephone interception

Telephone interception is a Federal offence. Any recording of a telephone conversation that involves inserting a device into a phone or between the body of a phone and its handset will be interception.

Recording a phone conversation by holding a recording device near the phone's mouthpiece or by putting a phone on speaker and recording the sound is not telephone interception.

If you believe someone has violated Federal law, the appropriate contact is the Australian Federal Police.

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<sup>8</sup> Legal Aid Qld have some general information about recording private conversations on their website here: <http://www.legalaid.qld.gov.au/Find-legal-information/Personal-rights-and-safety/Privacy-and-identity/Privacy#recordingprivateconversations>

<sup>9</sup> If you believe that the person who has violated the IoP Act is an officer of a Queensland government agency, they may also be in breach of the Information Privacy Act 2009, as the collection may be unlawful or unfair.



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**This information sheet is introductory only, and deals with issues in a general way. It is not legal advice. Additional factors may be relevant in specific circumstances. For detailed guidance, legal advice should be sought.**

If you have any comments or suggestions on the content of this document, please submit them to [enquiries@oic.qld.gov.au](mailto:enquiries@oic.qld.gov.au).

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