



An Garda Síochána

Code of Practice

GARDA SÍOCHÁNA (RECORDING DEVICES) ACT 2023

**Part VI - Processing by Members of Garda Personnel of CCTV Operated
by Third-Party Through Live Feed**

Code of Practice

Processing by Members of Garda Personnel of CCTV Operated by Third-Party Through Live Feed

Issued pursuant to Parts 4 and 8 of the Garda Síochána (Recording Devices) Act 2023

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1. Overview

1.1 Introduction

This Code of Practice (COP) is published by the Commissioner of An Garda Síochána with reference to the Garda Síochána (Recording Devices) Act 2023. The purpose of the Code of Practice is to provide guidance with respect to the processing by Members of Garda Personnel of CCTV operated by a third party through a live feed.

Where CCTV operated by a third party is processed by Members of Garda Personnel through a live feed is done so in accordance with the guidance contained in this Code of Practice, this shall, *prima facie*, indicate compliance with the relevant requirements of the Garda Síochána (Recording Devices) Act 2023.

The provisions of any guidance contained in this Code of Practice concerning the processing by Members of Garda Personnel of CCTV operated by a third party through a live feed will not be construed as prohibiting the use of other suitable frameworks or approaches.

1.2 Overview of Code

The Garda Síochána (Recording Devices) Act 2023 provides for matters of procedure, administration and control for the purpose of securing the implementation of the requirements of the Garda Síochána (Recording Devices) Act 2023 and of demonstrating how compliance with such requirements have been achieved in relation to the collection, processing, storage and use of recording devices and data.

This Code of Practice gives practical guidance on relevant statutory provisions for where CCTV operated by a third party is processed by Members of Garda Personnel through a live feed.

The Code sets out standards and procedures that should be adhered to by all Garda Personnel.

Pursuant to Section 37 of the Garda Síochána (Recording Devices) Act 2023 this Code of Practice shall not apply to the processing by members of Garda personnel of CCTV (including live feed of CCTV) that is operated by or on behalf of a local authority under an authorisation given under Part 5 of the Garda Síochána (Recording Devices) Act 2023.

1.3 Legal Context (Scope and Application)

The Code of Practice covers the processing by Members of Garda Personnel of CCTV operated by a third party through a live feed. The legal basis for such processing is provided for in Part 6 of the Garda Síochána (Recording Devices) Act 2023. This COP is prepared under section 47 of the Act and provides further detail on the processing by Members of Garda Personnel of CCTV operated by a third party through a live feed.

The areas covered include:

- Live feed processing by member of Garda personnel of third-party CCTV
- Application by superior officer for authorisation
- Authorisation
- Variation or renewal of authorisation
- Approval for processing of live feed of third-party CCTV
- Offences under this Part

Note that this Code of Practice does not apply to the use of recording devices other than, strictly, the processing by Members of Garda Personnel of CCTV operated by third party through live feed.

Where it is necessary for Members of Garda Personnel to obtain recordings of third party CCTV they should proceed in the conventional approach provided pursuant to Section 41 (b) of the Data Protection Act 2018.

1.4 Relevant Terms & Definitions

The definitions set out below are for the purpose of explaining terms used in this Code of Practice. There are not, and should not be construed as being, legal definitions or interpretations or similar terms which may be used in the Act of 2023 or regulations made thereunder.

‘Act of 2023’ means the Garda Síochána (Recording Devices) Act 2023

Term	Definition
CCTV	In relation to the operation of the Act of 2023 and this COP means a closed-circuit television system of one or more recording devices and includes any system for processing the images, any accompanying sounds, or other information obtained by those recording devices.
Code of Practice (COP)	As defined in section 2 of the Act of 2023, means a code of practice approved by the Minister by order under Part 8 of the Act of 2023, (and includes part of a code of practice) providing a set of agreed and documented standards for the use of digital recording devices by personnel of An Garda Síochána.
Document	As defined in section 2 of the Act, means any of the following: a) a book, record or other written or printed material, b) a photograph, c) any information stored, maintained, or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in legible form, and d) any audio or video recording.
Garda Personnel	means: (a) members of An Garda Síochána, or (b) members of Garda Staff.
Lawful and legitimate policing purpose	any activity undertaken with the intent to: prevent, investigate, detect, or prosecute criminal offences; secure public order and public safety; or safeguard against, or prevent threats to public security, in accordance with the functions of An Garda Síochána set out in Section 9(1) of the Policing, Security and Community Safety Act 2024.
Member of An Garda Síochána	means a “member” within the meaning of section 2(1) of the Policing, Security and Community Safety Act 2024.
Member of Garda Staff	means a “member of garda staff” within the meaning of section 2(1) of the Policing, Security and Community Safety Act 2024.
Member of Garda Personnel	means a “member of garda personnel” within the meaning of section 44 of the Policing, Security and Community Safety Act 2024, other than in Part 6.
Operation	in relation to CCTV, includes the maintenance and monitoring of the CCTV.
Personal data	means information relating to: (a) an identified living individual, or (b) a living individual who can be identified from the data, directly or indirectly, in particular by reference to:

Term	Definition
	i. an identifier such as a name, an identification number, location data or an online identifier, or one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, or social identity of the individual.
Public place	means a place to which the public have or are permitted access, whether as of right or by express or implied permission and whether subject to or free of charge.
Recording device	(a) means a device or system that is capable of creating a record in any medium from which visual images (including moving visual images) or sounds, or both, may, by any means, be reproduced, (b) includes any devices or systems that are capable of processing the record made under paragraph (a), which may include— i. reproducing by any means the visual images (including moving visual images) or sounds concerned, ii. using ANPR in respect of the record, or iii. producing a document relating to the record or the processing concerned. includes any device or system referred to in paragraph (a) or (b) that is in or affixed to a vehicle or a structure; Note that this CoP does not apply to the use of recording devices other than the processing by Members of Garda Personnel of CCTV operated by third party though live feed.
Relevant data	means any data relevant which, when used lawfully, where necessity requires and is proportionate, assists in public safety; preventing, detecting, investigating or prosecuting criminal offences; preventing threats to national security, or public security; or for the purposes of providing or obtaining legal advice or for the purposes of, or in connection with, legal claims, prospective legal claims, legal proceedings or prospective legal proceedings or establishing, exercising or defending legal rights.

1.5 Guiding Principles

Footage or images containing identifiable individuals captured by CCTV systems are personal data for the purposes of data protection law and may have an impact on rights and freedoms of members of the public.

Before authorising or approving processing by Members of Garda Personnel of CCTV operated by third party though live feed, the authoriser or approver must consider whether the proposed activity would be a proportionate means of achieving the policing principles of An Garda Síochána set out in Section 4 of the Policing, Security and Community Safety Act 2024, or the functions of the Security services set out in Section 3 of the Policing, Security and Community Safety Act 2024, in light of the impact of the activity on the rights and freedoms of members of the public.

If the proposed activity is not proportionate, the authoriser or approver must not authorise the proposed Activity.

The impact of an activity on the rights and freedoms of members of the public will vary, depending on the characteristics of the activity. These guiding principles are intended to assist the authoriser or approver in assessing the proportionality of the proposed activity.

The starting point for the authoriser or approver is to consider any interference with the rights and freedoms of members of the public that would be created by the proposed activity. In particular:

Article 8 EHRC (right to a private and family life) will be relevant in all cases, but to varying degrees. The authoriser or approver should proceed on the basis that Article 8 is always engaged when (i) someone's image is captured on CCTV operated by third party through live feed, and (iii) where someone is engaged by members of An Garda Síochána as a result of their being subject identified by a Member of Garda Personnel monitoring the live feed. Article 8 may be engaged with greater intensity if the proposed activity is in an area in which members of the public have greater expectations of privacy, for example close to a medical institution or a school. The circumstances at the activity location may also affect the intensity with which these privacy rights are engaged.

Article 9 EHRC (freedom of thought, belief and religion) will be relevant in some cases. For instance, if the activity is outside a place of worship, this may have a chilling effect on the willingness of individuals to attend at that place for the purposes of manifesting their religious beliefs.

Article 10/11 EHRC (freedom of expression and freedom of assembly) will be relevant in some cases, for example, (i) where the activity is used in the policing of protests, demonstrations or other types of assembly, or (ii) where a particular activity may otherwise affect persons engaged in protests, demonstrations or other types of assembly (e.g. because a demonstration is scheduled to pass through an area covered by the live feed). The authoriser or approver should have regard to the risk that the activity will have a chilling effect on the willingness of some individuals to take part in a lawful assembly and express their views.

Article 14 (freedom from discrimination) protects people from discrimination in the enjoyment of one or more other human rights, even where those other human rights have not been breached. The authoriser or approver should consider whether the circumstances of the proposed activity are likely to have a particular impact on one group in society, for example because of characteristics relating to their sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, or birth.

The particular circumstances of activities and how the activity may integrate into wider policing and security tactics will vary, but considering the following characteristics of the activity will help the authoriser or approver to assess whether a particular activity will adversely affect the rights and freedoms of the public:

The reasonable expectations of privacy that members of the public present at that location can be taken to have:

Some places by their nature attract greater privacy expectations than others with. For example, the expectations of privacy at a busy city thoroughfare will typically be lower than in a quiet suburban park or backstreet. Some locations should be treated as inherently sensitive because of what attendance at that location potentially reveals about the individual. Such locations will include, for example: hospitals, GP surgeries and clinics; places of worship; legal advice centres; polling stations; schools (and other places particularly frequented by children); care homes and locations providing access to elected representatives;

Some places will attract greater privacy expectations at certain specific times: for example, a sporting clubhouse, a building hosting obsequies, marriages or a religious initiation.

The number of cameras and coverage they provide should also be considered in this context to ensure the size and scale of the activity enables individuals of interest to be effectively located without disproportionately processing the data of members of the public;

Whether a proposed activity may have a chilling effect on the willingness of individuals to exercise their fundamental rights. The activity in some contexts may deter individuals from exercising their fundamental rights. For example, the activity at a protest may deter individuals from exercising their fundamental rights of free association and free expression, while the activity outside a place of worship may deter individuals attending that place.

Having considered the interference created by the activity with the fundamental rights and freedoms of members of the public, the authoriser or approver should go on to consider whether the activity is a proportionate means of achieving the policing principles of An Garda Síochána set out in Section 4 of the Policing, Security and Community Safety Act 2024, or the functions of the Security services set out in Section 3 of the Policing, Security and Community Safety Act 2024. They should do this in three stages.

Stage 1

Stage 1 requires the authoriser or approver to be satisfied that the activity will be likely to achieve one or more relevant policing principles of An Garda Síochána set out in Section 4 of the Policing, Security and Community Safety Act 2024, or the functions of the Security services set out in Section 3 of the Policing, Security and Community Safety Act 2024.

Stage 2

Stage 2 is to consider whether there are alternative means of achieving the relevant policing principles of An Garda Síochána set out in Section 4 of the Policing, Security and Community Safety Act 2024, or the functions of the Security services set out in Section 3 of the Policing, Security and Community Safety Act 2024, which would have a lesser adverse impact on the fundamental rights and freedoms of potentially affected members of the public. There are two aspects to this:

Could other less intrusive methods be used without unacceptably compromising the achievement of the relevant policing principles of An Garda Síochána set out in Section 4 of the Policing, Security and Community Safety Act 2024, or the functions of the Security services set out in Section 3 of the Policing, Security and Community Safety Act 2024?

Is the proposed activity itself designed so as to avoid undue interference with the rights and freedoms of members of the public? Consider whether the activity could be deployed elsewhere, with fewer cameras, for a shorter duration to make it less intrusive without unacceptably compromising the achievement of the relevant policing principles of An Garda Síochána set out in Section 4 of the Policing, Security and Community Safety Act 2024, or the functions of the Security services set out in Section 3 of the Policing, Security and Community Safety Act 2024.

If the relevant policing principles of An Garda Síochána set out in Section 4 of the Policing, Security and Community Safety Act 2024, or the functions of the Security services set out in Section 3 of the Policing, Security and Community Safety Act 2024 could be effectively achieved through the use of less intrusive policing or security methods, then the activity should not be authorised as it will not constitute a proportionate means of achieving the relevant policing principles of An Garda Síochána set out in Section 4 of the Policing, Security and Community Safety Act 2024, or the functions of the Security services set out in Section 3 of the Policing, Security and Community Safety Act 2024.

In all other cases, the authoriser or approver should proceed to stage 3.

Stage 3

Stage 3 is to stand back and consider whether the activity strikes a fair balance between any interference with the rights and freedoms of those affected by the activity and the achievement of the relevant policing principles of An Garda Síochána set out in Section 4 of the Policing, Security and Community Safety Act 2024, or the functions of the Security services set out in Section 3 of the Policing, Security and Community Safety Act 2024. This balancing exercise requires consideration of all of the circumstances, including

The degree to which the activity will enable the relevant policing principles of An Garda Síochána set out in Section 4 of the Policing, Security and Community Safety Act 2024, or the functions of the Security services set out in Section 3 of the Policing, Security and Community Safety Act 2024 to be achieved. The more effective the activity from a policing or security perspective, the more that weighs in favour of it striking a fair balance between competing rights and interests.

The degree to which the activity supports fundamental rights and freedoms. In some circumstances, the public's exercise of their fundamental rights may be under threat: for example, their Article 8 rights to physical integrity may be threatened by a risk to public safety, or their Article 9 rights to freedom of religion may be adversely affected by a threat to a place of worship. If the activity is likely to provide support the exercise of the public's fundamental rights by providing reassurance, then that will weigh in favour of the activity striking a fair balance.

How the activity compares to any alternatives? If the activity would make a significantly greater contribution to achieving the policing and security aim than alternatives (for example, because the alternatives would be significantly more resource-intensive), then that will weigh in favour of the activity striking a fair balance.

The degree to which the activity would interfere with fundamental rights and freedoms. Authoriser or approvers should consider the nature of the interference, the seriousness of the interference, and the number of people likely to experience that interference. The more serious and extensive the interference with fundamental rights, the more that will weigh against the activity striking a fair balance.

1.6 AGS Decision Making Model

The Garda Decision Making Model (GDMM) applies to all decisions made by Garda personnel from spontaneous incidents to planned operations, daily duties to strategic planning.

Where there may be situations which are not explicitly covered in this Code, Garda personnel should use the GDMM to inform their actions and decisions with respect to the use of digital recording devices.

1.7 Roles & Responsibilities

In the interest of operational efficiency and consistency of approach in the application of the Act of 2023 by An Garda Síochána the Commissioner directs that all applications for live feed processing as defined by the Act of 2023 will be adherent to the Act of 2023.

Coordination of the function of Part 6 of the Act is the responsibility of the respective Region seeking to process CCTV operated by a third party, the respective Region will bear responsibility for documenting and retaining documentation in respect of Part 6 applications.



1.8 Live feed processing by member of Garda personnel of third-party CCTV

A member of Garda personnel may process CCTV operated by a third party through a live feed only in accordance with an—

- (a) authorisation granted in accordance with section 40 of the Act of 2023, or varied or renewed in accordance with section 41 of the Act of 2023, or
- (b) approval granted in accordance with section 42 of the Act of 2023.

1.9 Application by superior officer for authorisation

Purposes of Processing a Live Feed from CCTV Operated by a Third Party

A superior officer may make an application to the District Court in accordance with section 40 (1) of the Act of 2023 for an authorisation to process a live feed from CCTV operated by a third party, where the superior officer has reasonable grounds for believing that such processing is required for the purpose of—

- a) the prevention, investigation, detection or prosecution of criminal offences,
- b) safeguarding against, and the prevention of, threats to public security, including securing public safety and public order, or
- (c) the protection of the security of the State.

Authorisers or approvers will give full and proper consideration to the guiding principles and three stage process set out in this CoP in considering any application for authorisation or approval.

1.10 Authorisation

Venue

An application under Section 39 of the Act of 2023 for an authorisation or under section 41 of the Act of 2023 for a variation or renewal of an authorisation shall be made: -

- On notice to the third party CCTV operator concerned and shall be heard otherwise than in public, and;
- To a judge of the District Court of the district in which the CCTV cameras are situated.

Sworn Information

A judge of the District Court of the district in which the CCTV cameras are situated shall grant such authorisation or such variation or renewal of an authorisation as he or she considers reasonable if satisfied by information on oath of the superior officer concerned that—

- In the case of an application under Section 39 of the Act of 2023:
 - That the superior officer making the application has reasonable grounds for his or her belief referred to in that section, and
 - Where section 42 (8)(a) applies, that the superior officer making the application has reasonable grounds for believing that access beyond 72 hours is warranted,

or

- In the case of an application under section 41 (1), that the superior officer making the application has reasonable grounds for believing that the variation or renewal is justified.

The information on oath of a superior officer specifying the grounds for his or her belief that the processing of CCTV operated by a third party through a live feed is required for any of the purposes referred to in section 39 of the Act of 2023 need not specify a particular offence in respect of which the authorisation is being sought.

Authorisers or approvers will give full and proper consideration to the guiding principles and three stage process set out in this CoP in considering any application for authorisation or approval.

Form of Authorisation

An authorisation may impose such conditions in respect of the authorised processing of third-party CCTV through a live feed as the judge considers appropriate.

An authorisation shall be in writing and shall specify—

- (a) the particulars of the third-party CCTV that is authorised to be processed through a live feed,
- (b) the purpose for which the third-party CCTV that is authorised to be processed through a live feed will be used,
- (c) the name and rank of the superior officer to whom it is given,
- (d) the conditions (if any) subject to which the authorisation is given, and
- (e) the date of the expiry of the authorisation.

Validity Period for Authorisation

Subject to Section 41 of the Act of 2023, an authorisation shall expire on the day fixed by the judge that he or she considers reasonable in the circumstances and that is not later than 6 months from the day on which it is given.

1.11 Variation or renewal of authorisation

Who Can Apply for a Variation or Renewal?

A superior officer may make an application to the District Court in accordance with section 40 (1) of the Act of 2023 for a variation or renewal of an authorisation (i.e. the 'original authorisation'), and the judge to whom the application is made may, if they are satisfied by information on oath of the superior officer justifying the variation or renewal of the original authorisation—

- vary the authorisation, or
- renew the authorisation, on the same or different conditions, for such further period, not exceeding 6 months, as the judge considers appropriate.

What Should Be Contained in the Application for a Variation or Renewal?

The information on oath referred to in Section 41 of the Act of 2023 shall include—

- A copy of the original authorisation or any authorisations renewing or varying the original authorisation if applicable;
- The outcome of the processing carried out under any of the authorisations referred to in Section 41 (1) (a) of the Act of 2023, and;
- The reasons why the superior officer believes that the renewal or variation, as the case may be, is required.

When should an Application for a Variation or Renewal Be Made?

An application for a renewal under this section shall be made before the authorisation concerned, or any previous renewal of that authorisation, as the case may be, has expired.

Where an application for a renewal under this Section 41 of the Act of 2023 has been made and the authorisation concerned would, but for Section 41 (1) of the Act of 2023, expire before the determination of the application, it shall be deemed not to expire until the application has been determined.

It will be the responsibility of the superior officer who obtained the original authorisation to ensure regular and timely reviews of the effectiveness and efficiency of the processing by Members of Garda Personnel of CCTV operated by a third party through a live feed.

Before any application for an order of variation or renewal under Section 41 of the Act of 2023 to a District Court is considered the superior officer who obtained the original authorisation shall ensure a timely review of the activity.

1.12 Approval for processing of live feed of third-party CCTV

Note: It should be emphasised that an approval should only be obtained where an authorisation cannot be obtained from a District Court.

Application to Independent Superior Officer for Approval

In cases of urgency a member of Garda personnel may, in accordance with Section 42 of the Act of 2023, process CCTV operated by a third party through a live feed without an authorisation granted under Section 40 of the Act of 2023 if such processing has been approved by a superior officer who is independent of the investigation or matter in relation to which the approval is being sought (in this section referred to as an “independent superior officer”).

Authorisers or approvers will give full and proper consideration to the guiding principles and three stage process set out in this CoP in considering any application for authorisation or approval.

This access is limited to a period of 72 hours but may be extended in extenuating circumstances by way of an application pursuant to Section 39 of the Act of 2023 to a District Court.

The member of Garda personnel referred to in Section 42 (1) of the Act of 2023 may apply to an independent superior officer for the grant of an approval to process CCTV operated by a third party through a live feed for one or more of the following purposes:

- that information relevant to a criminal offence that has been, is being, or will be committed in the vicinity of the third-party CCTV can be obtained by processing the third-party CCTV;
- that the processing of the third-party CCTV is necessary in order to safeguard against, and prevent threats to public security, including securing public safety and public order;
- that the processing of the third-party CCTV is necessary in order to protect the security of the State.

Independent Superior Officer and Their Role

In cases of urgency where Section 42 of the Act of 2023 is being considered, the ‘independent superior officer’ in relation to the operation of this section is a Superintendent independent of the investigation or matter in relation to which the approval is being sought.

The ‘independent superior officer’ will be responsible in all cases for deciding whether to approve the processing by Members of Garda Personnel of CCTV operated by a third party through a live feed under Section 42 of the Act of 2023 they consider appropriate: -

- a) having regard to the information contained in the application;
- b) if they consider on reasonable grounds that the processing is necessary and proportionate having regard to the purpose or purposes of such processing referred to in Section 40 (2) of the Act of 2023, and;
- c) the processing shall be limited to a duration that is required to achieve its objectives.

Contents of the Written Record of the Approval

Section 42 of the Act of 2023 requires the making of a written record of the approval by the superior officer as soon as practicable. As soon as practicable is interpreted as being no later than eight (8) hours after the processing by Members of Garda Personnel of CCTV operated by a third party through a live feed has been approved.

An approval under section 42 (3) of the Act of 2023 or a variation under Section 42 (7) of the Act of 2023 –

- shall, if granted orally, be recorded in writing as soon as practicable;
- May, subject to subsection 42 (6) of the Act of 2023 be granted subject to conditions, including as to the duration of the access.
- shall set out the grounds of approval, and the conditions, if any, attached to the approval, and
- shall be provided in writing to the third party concerned as soon as practicable and in any event before the processing to which it relates occurs.

The approval in writing or the variation thereof in writing referred to in Section 42 (4) shall specify –

- the particulars of the third-party CCTV that is approved to be processed through a live feed,
- the purpose for which the third-party CCTV that is approved to be processed through a live feed shall be used, and
- the name, and rank or grade, of the member of Garda personnel to whom it is granted.

Validity Period for Approval

A member of Garda personnel shall not process CCTV operated by a third party through a live feed under this section for a period of more than **72 hours** from the time at which the approval is granted.

The independent superior officer who has granted an approval under Section 42 (3) of the Act of 2023 may, following an application by a member of Garda personnel setting out the reasons justifying the variation and having regard to the matters referred to in Section 42 (3) of the Act of 2023, vary the approval or any condition attached to it, other than the duration of the approval, at any time before the expiry of the period of 72 hours referred to in Section 42 (6) of the Act of 2023.

Extension of Validity Period of Approval Beyond 72 Hours

If a superior officer (other than the independent superior officer) believes on reasonable grounds that access beyond the period of 72 hours is warranted, they shall, as soon as possible but in any case before the expiry of that period, make an application under Section 39 of the Act of 2023 for an authorisation.

Where an application under Section 39 of the Act of 2023 referred to in the paragraph above has been made and the period of 72 hours referred to in that paragraph would, but for this paragraph, expire before the determination of the application, that period shall be deemed not to expire until the application has been determined.

The information on oath supporting the application referred to in Section 42 (8) of the Act of 2023 shall include:

- A copy of the written record of approval referred to in Section 42 (5) of the Act of 2023 concerned;
- A summary of the outcome of the actions taken pursuant to that approval, and;
- The reasons why continued processing is required.

A member of Garda personnel who processes under this section the CCTV operated by a third party through a live feed shall make a report to a member of the Garda Síochána of the rank of chief superintendent as soon as possible and, in any case, not later than 7 days, after the access to the live feed concerned has concluded, specifying the following matters:

- The name and address of the operator of the third-party CCTV;
- The time and date on which the access to the live feed began and ceased;
- The grounds on which the approval was granted, including a copy of the written record of approval, and
- A summary of the outcome of the processing.

1.13 Offences under this Part

Section 43 of the Act of 2023 sets out **that a person who owns or operates the third party CCTV that is specified** in an authorisation granted under and in accordance with Section 40 of the Act of 2023 or varied or renewed under Section 41 of the Act of 2023, or in an approval granted under Section 421, or varied under that section, **shall comply with the terms of the authorisation of the approval as the case may be.**

A person who fails to comply with an authorisation granted in the circumstances set out above shall be guilty of an offence.

A person guilty of an offence under the paragraph above shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.

A person who, without lawful authority or reasonable excuse, knowingly does any of the following:

- (a) falsifies, conceals, destroys or otherwise disposes of information (including visual or audio information) gathered by CCTV to which this Part relates;
- (b) permits the falsification, concealment, destruction or disposal of the information;
- (c) causes damage to or destroys the CCTV or part thereof;
- (d) permits damage to, or the destruction of, the CCTV or part thereof,
- (e) for the purpose of making that information, any document derived therefrom or the CCTV or part thereof unavailable as evidence, shall be guilty of an offence.

A person who induces, coerces or requests, without lawful authority or reasonable excuse, a member of Garda personnel to commit an offence listed in the paragraph above shall be guilty of an offence.

A person guilty of an offence under subsection (3) or (4) shall be liable—

- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both,
- or
- (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years or both.

To satisfy the principle of foreseeability all correspondence to persons who operate or own third party CCTV that is specified in an authorisation granted under and in accordance with Section 40 of the Act of 2023 or varied or renewed under Section 41 of the Act of 2023, or in an approval granted under Section 421, or varied under that section should contain advice of the offence they may commit for non-compliance and the penalties which apply to these offences.

2. Data Confidentiality, Security, Storage, Access, Retention & Deletion

This section provides an overview of the guidance on the handling and management of recordings and images obtained from third party live feeds to ensure a common understanding by way of further detail in relation to the operation of Part 6 of the Act of 2023 and this code of practice.

2.1 Non-recording of Third Party Live Feeds

Where CCTV operated by a third party is processed by Members of Garda Personnel through a live feed it shall not be recorded by An Garda Síochána.

Note that this Code of Practice does not apply to the use of recording devices other than, strictly, the processing by Members of Garda Personnel of CCTV operated by third party through live feed.

Where it is necessary for Members of Garda Personnel to obtain recordings of third party CCTV they should proceed in the conventional approach provided pursuant to Section 41 (b) of the Data Protection Act 2018.

2.2 Data Confidentiality, Security, Access & Viewing

Only Members of Garda Personnel with a centrally involved in the management or operation of the policing or security objective may be allowed access to monitoring areas displaying CCTV operated by third party through live feed. All images displayed must be viewed and managed in accordance with relevant data protection legislation and the Garda Code of Ethics. Operators are to ensure that all uses of the CCTV operated by third party through live feed are appropriate, authorised in the public interest and in line with this CoP.

Any Members of Garda Personnel making use of the display facility must complete an entry in official documentation, which will also include a copy of the authorisation or approval to ensure that Members of Garda Personnel are aware the third party live feed is authorised or approved and that they are aware of any specific conditions set out by the authoriser / approver.

2.3 Access to and Disclosure of CCTV Images to Third Parties

Where CCTV operated by a third party is processed by Members of Garda Personnel through a live feed it shall not be recorded by An Garda Síochána.

Where it is necessary for Members of Garda Personnel to obtain recordings of third party CCTV they should proceed in the conventional approach provided pursuant to Section 41 (b) of the Data Protection Act 2018.

Data subjects wishing to obtain access and disclosure of CCTV images from third party live feeds used by An Garda Síochána should follow the third party data controller's process to obtain access and disclosure.

2.4 Data Use and Governance

2.4.1 Relevant Data Controller

The third party remains the data controller for any personal data which is captured on live CCTV feeds.

2.4.2 Governance and Compliance

The effective management of the processing by Members of Garda Personnel of CCTV operated by a third party through a live feed requires that:

- The overall management of the live feed and the requirement to comply with the CoP is the responsibility of the Chief Superintendent in charge of the Division;
- Access to the monitoring area must comply with the COP and will be recorded and monitored.

Compliance with this CoP and associated document(s) is mandatory for all Garda personnel. It applies to police officers from the Police Service of Northern Ireland (PSNI) seconded to An Garda Síochána under the provisions of section 53 of the Garda Síochána Act 2005 and in accordance with section 94 of the Policing, Security and Community Safety Act 2024.

2.5 Data Retention & Disposal

Part 6 of the Act of 2023 refers to 'live feeds' only and as such no recordings should be made or retained by An Garda Síochána. Rather should recordings be required where it is necessary for Members of Garda Personnel to obtain recordings of third party CCTV they should proceed in the conventional approach provided pursuant to Section 41 (b) of the Data Protection Act 2018.

In the context of the provisions of Section 41 (b) of the Act of 2018, (i.e. processing is necessary and proportionate for the purposes of (a) of preventing a threat to national security, defence or public security, (b) of preventing, detecting, investigating or prosecuting criminal offences, or (c) set out in paragraph (a) or (b) of section 47 of the Act of 2018), the data can be retained on an ongoing basis subject to regular review in line with the National Archives Act 1986, internal policies and procedures.

Pursuant to Section 7 of the Criminal Justice Act 2006 where the data sought and obtained under Section 41 (b) of the Act of 2018 is data that a Member of An Garda Síochána has reasonable grounds for believing is evidence of, or relating to, the commission of an arrestable offence, he or she may seize and retain the data for use as evidence in any criminal proceedings for such period from the date of seizure as is reasonable or, if proceedings are commenced in which the thing so seized is required for use in evidence, until the conclusion of the proceedings. The power under this section to seize and retain evidence is without prejudice to any other power conferred by statute or otherwise exercisable by a member of the Garda Síochána to seize and retain evidence of, or relating to, the commission or attempted commission of an offence.

2.6 User Training

Monitoring and control of screen displays will be carried out by suitably trained Garda personnel. A training program will be put in place for such personnel ensuring that they are proficient in the use of Public CCTV and its use is made known to them. Aligned to organisation policy, An Garda Síochána College will oversee the development and deployment of such training; feeding into the training material, quality control and approval.

3. Data Subject Rights

3.1 Data Protection Compliance

As per Section 8(1) of the Data Protection Act 2018, the Data Protection Act 1988 (as amended) continues to apply to processing of personal data for State security purposes, and the General Data Protection Regulation (GDPR) (EU) 2016/679 applies to processing of personal data for non-law enforcement purposes. In processing digital recordings relevant to this COP (including arrangements for access, storage and retention of recordings), An Garda Síochána will ensure compliance with the relevant and applicable data protection legislative framework for the processing concerned.

3.2 Access by Data Subjects

An Garda Síochána will ensure that data subjects can exercise their rights as outlined under data protection legislation. An Garda Síochána has a dedicated Data Protection Unit that manages subject access requests under data protection legislation on behalf of the organisation. The Data Protection Unit ensures that subject access requests are managed in line with the requirements and timescales specified under data protection legislation. This includes reviewing relevant material in relation to a request, including digital recordings, to ensure that appropriate redactions or restrictions are applied, as required, to protect the data protection rights of third parties, or, where a necessary and proportionate measure under data protection legislation, including for the purposes outlined under Section 94 of the Data Protection Act 2018.

3.3 Data Protection Impact Assessment

In line with the requirements of data protection legislation, An Garda Síochána will ensure that a Data Protection Impact Assessment (DPIA) is conducted in relation to each third party live feed application within the scope of this CoP as part of the authorisation or approval process for each application. DPIAs will include a general description of the proposed processing operations; an assessment of the potential risks to the rights and freedoms of data subjects as a result of the proposed processing; and a description of safeguards, security measures and mechanisms to be implemented to mitigate said risks. Such measures will include relevant internal policies and procedures, including this CoP.

4. Ethical Standards & Commitments

The Code of Ethics for the Garda Síochána sets out guiding principles to inform and guide the actions of all Garda Síochána Personnel, at every level of the organisation.

4.1 Approving Authority

Minister for Justice, Department of Justice

4.2 Monitoring and Review

The COP will be reviewed every five years and may be periodically updated where significant change or updates are made to the Act.

4.3 Consultation

An Garda Síochána have consulted with the following regarding the content of the draft COP and will provide them with the results of the Human Rights Impact Assessment when completed:

- (i) the Minister;
- (ii) the Policing Authority;
- (iii) the Garda Síochána Ombudsman Commission;
- (iv) the Garda Síochána Inspectorate;
- (v) the Data Protection Commission; and
- (vi) the Irish Human Rights and Equality Commission
- (vii) Local Government Management Agency

4.4 Publication

This document will be made available to the public.

4.5 Disclaimer

This document is not intended to, nor does it represent legal advice to be relied upon in respect of the subject matter contained herein. This document should not be used as a substitute for professional legal advice.