

Blake Laphorn Tarlo Lyons' nursery and childcare news

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webcams in nurseries

In an increasingly competitive climate, some nurseries are seeking to get the edge over their rivals by providing parents with access to web-cams positioned in their child's care environment. Many parents now spend their working day in front of a PC with Internet access, and at first sight the idea may appear to be an instant parent-pleaser. It allows parents to check up on their children without telephoning the setting and to satisfy themselves about the quality of care. However, there are significant practical and legal considerations.

Nursery staff may feel uncomfortable with being watched, and decide to join other settings. Parents, too, may feel unhappy about the loss of their child's privacy. After all, the web-cam will provide footage of all children, no matter what they are doing. Many parents may feel uncomfortable at the thought of their child's major tantrum, for example, being broadcast to other parents.

Security will be a key issue in the minds of parents. The concerns may range from another parent's workplace PC logged in to the web-cam being viewed by their work colleagues, to the risk of the web-cam being hacked into and hijacked by predatory paedophiles.

There are legal considerations too. The footage processed by the web-cam will be personal data under the Data Protection Act (DPA), because the camera will be focussed on identifiable individuals, and the footage will reveal significant information about them that would affect their privacy.

Under the DPA, the processing of personal information must be fair and lawful. Given that the subjects are infants, and that staff may have little choice in working with web-cams if they wish to keep their job, the issue of fairness could be open to question. This is made more pertinent because the courts are bound to interpret the law in accordance with the Human Rights Act, which states that everyone has the right to a private life. Although this right can be infringed where it is lawful and necessary, a web-cam service is not a necessity.

Some of the footage is likely to reveal the mental and physical health of the individuals concerned, which is defined in the DPA as being 'sensitive personal data'. This means that the explicit, informed and freely given consent of all the employees and the parents of the children involved (on their children's behalf), would have to be obtained to make the processing legitimate. If only one parent or one employee refused to give that consent, then the setting would not lawfully be able to run a general web-cam scheme.

One way of overcoming the legal obstacles would be to provide the web-cam service from a room staffed only by employees who freely offered to work in that environment, with children whose parents had specifically consented to the use of the web-cam. This may be workable in some environments, but nursery operators should consider whether they have sufficient rooms to do this and can continue to provide the correct staff:child ratios.

points to note

- consider whether parents really want a web-cam or would have concerns which can be addressed in other ways
- assess the likely impact on your staff
- make sure you understand your legal obligations (particularly under the DPA) if you are thinking of installing a web-cam

Blake Laphorn Tarlo Lyons will be exhibiting at the Childcare and Nursery show at the Bournemouth International Centre from 27 -28 June.

For more information on the show visit www.nurseryshow.co.uk/index.asp.

This publication is not a substitute for detailed advice on specific transactions and problems and should not be taken as providing legal advice on any of the topics discussed.

To receive this briefing by email, please contact John Parkinson at john.parkinson@blaw.co.uk. If you do not wish to receive any similar mailings from Blake Laphorn Tarlo Lyons, please email briefings@blaw.co.uk.

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