

Licensing and Public Safety Committee

Tuesday, 27th June, 2023, 6.00 pm

Shield Room, Civic Centre, West Paddock, Leyland, PR25 1DH

Agenda

1 Apologies for Absence

2 Declarations of Interest

Members are requested to indicate at this stage in the proceedings any items on the agenda in which they intend to declare an interest. Members are reminded that if the interest is a Disclosable Pecuniary Interest (as defined in the Member's Code of Conduct) they must leave the room for the whole of that item. If the interest is not a Disclosable Pecuniary Interest, but is such that a member of the public could reasonably regard it as being so significant that it is likely that it would prejudice their judgement of the public interest (as explained in the Code of Conduct) then they may make representations, but then must leave the meeting for the remainder of the item.

3 Minutes of Licensing and Public Safety Committee

(Pages 3 - 8)

To approve the minutes of the meeting of the Committee held on 6 September 2022 (attached).

4 Minutes of the General Licensing Sub Committee

(Pages 9 - 10)

To approve the minutes of the General Licensing Sub Committee held on 8 November 2022 (attached).

5 CCTV Policy - Consultation feedback

(Pages 11 - 178)

Report of the Director of Planning and Development attached.

Chris Sinnott
Chief Executive

Electronic agendas sent to Members of the Licensing and Public Safety Committee Councillors Jane Bell (Chair), Paul Wharton-Hardman (Vice-Chair), Hilary Bedford, Julie Buttery, Mathew Forshaw, Peter Gabbott, Jasmine Gleave, James Gleeson, Harry Hancock and Emma Stevens

The minutes of this meeting will be available on the internet at www.southribble.gov.uk

Forthcoming Meetings

6.00 pm Tuesday, 12 September 2023 - Shield Room, Civic Centre, West Paddock, Leyland, PR25 1DH

Minutes of	Licensing and Public Safety Committee
Meeting date	Tuesday, 6 September 2022
Committee members present:	Councillors Jacky Alty (Chair), Julie Buttery, Chris Lomax, Keith Martin, Jacqui Mort, Peter Mullineaux, Paul Wharton-Hardman, Margaret Smith and Gareth Watson
Officers present:	Chris Ward (Licensing Manager), Elizabeth Walsh (Senior Solicitor), Coral Astbury (Democratic and Member Services Officer), Justin Abbotts (Licensing Officer) and Stephanie Newby (Licensing Officer)
Other attendees:	Councillors and Matt Campbell and Karen Walton (attended virtually)
Public:	0

A video recording of the public session of this meeting is available to view on [YouTube here](#)

1 Apologies for Absence

Apologies were received from Councillors Jane Bell, Renee Blow, Alan Ogilvie and John Rainsbury.

Councillors Margaret Smith and Gareth Watson were in attendance as substitutes for Councillors Alan Ogilvie and John Rainsbury.

2 Declarations of Interest

There were no declarations of absence.

3 Minutes of meeting Tuesday, 7 June 2022 of Licensing and Public Safety Committee

Resolved: (Unanimously)

The minutes of the last meeting held Tuesday, 7 June 2022 of the Licensing and Public Safety Committee were agreed as a correct record for signing by the Chair.

4 Minutes of meeting Thursday, 26 May 2022 of General Licensing Sub-Committee

Resolved: (Unanimously)

The minutes of the last meeting held Thursday, 26 May 2022 of the General Licensing Sub-Committee were agreed as a correct record for signing by the Chair.

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5 Minutes of meeting Tuesday, 5 July 2022 of General Licensing Sub-Committee

Resolved: (Unanimously)

The minutes of the last meeting held Tuesday, 5 July 2022 of the General Licensing Sub-Committee were agreed as a correct record for signing by the Chair.

6 Request For Taxi Tariff Increase

The committee considered a report of the Director of Planning and Development that sought to inform members about a request from the taxi drivers of South Ribble for a tariff increase.

The Licensing Manager explained that a written request had been received from the Hackney Drivers Association Ltd for an increase in the tariff of charges set by this authority. The request proposed the following changes to the current tariff charges:

- **Tariff 1**
For the first two tenths of a mile - £3
For each succeeding tenth of a mile - £0.25
- **Tariff 2**
For the first two tenths of a mile - £3.50
For each succeeding tenth of a mile - £0.30
- **Tariff 3**
For the first two tenths of a mile £4.50
For each succeeding tenth of a mile - £0.40

The Licensing Manager explained that the authority currently sat at 198 least expensive out of 359 Councils recorded nationally. Within the local area South Ribble was the third most expensive with a starting fare of £6.30. Drivers would not be able to charge more than the tariff but could charge less if they wished.

Mr Charles Oakes from the Hackney Drivers Association Ltd addressed the committee and explained that Drivers had just gone through a period of COVID and were still in a recovery phase. The impact of COVID had affected both sides of the trade and drivers were struggling. Mr Oakes advised that he had been asked to put the fare increase in to the authority, taking into consideration the price of fuel, cost of living and the price of parts for vehicles.

Mr Oakes explained that Drivers needed to make a profit as they were a business, he had also submitted request to increase fares at other authorities.

In response to a member enquiry, Mr Oakes confirmed that he had around 30-40 Drivers licenced by South Ribble.

Members empathised with the trade but also expressed concern on how the increase would effect residents, especially the elderly and vulnerable.

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Members noted that all members of the public were feeling the impact of cost of living and were concerned about the disproportionality of the proposed rise between Tariff 1 and Tariff 3. Some members explained they would like to see a level rise, or see a rise where those using Tariff 1 for shorter journeys would not be impacted as heavily as those using Tariff 3 for longer or special journeys.

Members also noted that the cost of fuel had reduced significantly over the last month, in some locations it had dropped by 20p a litre.

Councillor Chris Lomax proposed, seconded by Councillor Paul Wharton-Hardman to refuse the taxi tariff increase but to invite the Hackney Drivers Association to put forward an amended request for a taxi tariff increase.

This proposal was withdrawn following procedural advice from the committee's Senior Solicitor and Democratic Services Officer.

The Chair announced a short adjournment and the YouTube stream was ended.

Following the adjournment, the Chair re-opened the meeting and the YouTube Stream recommenced. Licensing Officers had been permitted to stay in the meeting room during their location to provide their knowledge and expertise to members. Officers had no influence or involvement in any decision making.

The Chair explained that a lot of consideration had been given to the issue of tariff increases and it was her view that it was worth examining in more detail in order to allow the best outcome for all parties.

Resolved: (Unanimously)

It was proposed by Councillor Chris Lomax, and seconded by Councillor Paul Wharton-Hardman that the request for a taxi tariff increase be rejected.

Members invited the representative from the Hackney Drivers Association to bring a new proposal back to members at a later date, preferably with two or three alternative increases.

7 Extension to Cafe Pavement Licenses

The committee received a report from the Director of Planning and Development that sought approval to extend the current Café pavement licensing scheme for a further year, until 30 September 2023 in line with the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2022.

The Licensing Manager explained that legislation had been introduced to support local businesses with their economic recovery post COVID. The legislation introduced fast track processes for approval for pavement licences for furniture and tables on the highway. Any business selling food or drink were permitted to apply for a pavement licence. The current fee for pavement licences was set at £100 and it was recommended that the council retains the same fee.

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Members commented that the café pavement licences had been beneficial to businesses and had succeeded in creating a nice atmosphere and environment on the high street.

Resolved: (Unanimously)

1. Members note the changes to the Business and Planning Act 2020 introduced by the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2022.
2. Members agreed to extend the proposed duration of granting pavement licences until 30 September 2023 as per the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2022.
3. To confirm the level of fee charged in respect of applications for pavement licences issued under the Business and Planning Act 2020.
4. To extend delegated authority to Officers as described at Paragraph 22 of the report.

8 CCTV Policy

The Licensing Manager presented a report of the Director of Planning and Development that advised members of the process for introducing CCTV in taxis and private hire vehicles as a mandatory condition of both Hackney Carriage and Private Hire Licences.

The Licensing Manager explained that Officers had received requests asking for the policy to be re-considered with the possibility of a mandatory policy investigated. The policy was last considered in 2008 and 2018 where it had not been possible to evidence the need for mandatory CCTV.

In July 2022 the DFT Statutory Standards was published with a strong focus on protecting drivers and travelling members of the public. The statutory guidance suggested that CCTV should be mandatory and the report made clear that the recommendations should be applied.

A member of the public addressed members and explained they were of the view that CCTV should be mandatory. All parties would benefit from the CCTV and it would give the licensing authority evidence of incidents that occur within vehicles.

Members welcomed the report and agreed that mandatory CCTV would protect all parties.

Resolved: (Unanimously)

1. Members note the content of the report,
2. Members agree to proceed to consultation on the proposal to introduce CCTV in all taxis and private hire vehicles,
3. Members agree to receive a report advising of the results of that consultation at a future meeting.

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9 Exclusion of the Press and Public

Resolved: (Unanimously)

That the press and public be excluded for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972.

By Virtue of Paragraph 1: Information relating to any individual.

10 Use of Standing Order 35

Members considered a confidential report of the Director of Planning and Development that sought to provide members with an update on the recent use of Standing Order 35.

Members thanked Officers for a comprehensive report.

Resolved: (Unanimously)

That the report be noted.

Chair

Date

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Minutes of	General Licensing Sub-Committee
Meeting date	Tuesday, 8 November 2022
Members present:	Councillors Jacky Alty (Chair), Jane Bell, Peter Mullineaux and Alan Ogilvie
Officers:	Chris Ward (Licensing Manager), Tasneem Safdar (Shared Legal Services Team Leader) and Clare Gornall (Democratic and Member Services Officer)

6 Apologies for absence

There were none.

7 Declarations of Any Interest

There were none.

8 Exclusion of the Press and Public

Resolved:-

That the press and public be excluded for the following item of business on the ground that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972.

9 New Taxi Driver Application

The Chair referred to the circulated established procedure for hearings and the process that would be followed.

The Licensing Manager presented a the report of the Director of Planning and Development outlining an application for a Hackney Carriage Driver's Licence. The report explained that the applicant had declared one criminal conviction for battery.

The Licensing Manager indicated that paragraph 6.3 of the Council's Taxi Licensing Policy states that:-

Consideration may only be given to granting/issuing a licence if at least 10 years have passed since the completion of any sentence and/or licence period following conviction for an offence shown below:

•Common assault

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The Licensing Manager advised members they would need to determine whether there were sufficient exceptional circumstances which would support a departure from this policy.

A supplement to the report contained a character reference from a Youth and Community worker who had known the applicant for 18 years. The reference had been verified by the referee in writing.

The applicant attended the meeting and made representations to the Sub Committee in support of his application and was asked questions.

The Licensing Manager and the applicant left the meeting while the Sub - Committee considered its decision.

In reaching its decision the panel took into account the following:

1. Both Written and Oral Evidence presented in connection with the hearing
2. The Local Government (Miscellaneous Provisions) Act 1976/Town Police Clauses Act 1847 (where applicable)
3. Statement of Policy and Guidelines relating to the relevance of convictions, formal/simple cautions, complaints and other matters which may impact on the granting of a licence – (revised 1/5/22)
4. The Statutory fit and proper person test.

Resolved:-

The application for a Hackney Carriage Driver's Licence be refused, as the Sub-Committee were of the view that no exceptional circumstances had been demonstrated by the applicant to support a departure from the Council's policy.

Chair

Date

Report of	Meeting	Date
Director of Planning and Development	Licensing and Public Safety Committee	Monday, 27 June 2023

CCTV Policy - Consultation feedback

Is this report confidential?	No
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Is this decision key?	No
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Purpose of the Report

1. The purpose of the report is to provide feedback on the consultations carried out in response to the possibility of mandating CCTV in vehicles licensed by South Ribble Borough Council.

Recommendations

2. Note the content of the report.
3. Consider the consultation responses from both members of the trade and the residents of South Ribble. Also, the crime statistics provided by Lancashire Constabulary and previous licensing cases.
4. Determine whether to proceed to mandate CCTV within licensed vehicles or to accept officer recommendations, for a non-mandatory CCTV policy that permits the vehicle proprietors, to have factory fitted tinted windows within licensed vehicles, provided that a compliant CCTV system is installed subject to the system being approved by SRBC officers prior to the licence being issued.
5. If members are minded to accept the recommendations of officers, then to forward this report to the next meeting of the Council with a recommendation for formal adoption of the proposed policy.

Other options considered and rejected

6. All options possible are address within the report body and as part of the recommendations to members, stated above in section 2 - 5 of the report.

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Corporate priorities

7. The report relates to the following corporate priorities:

An exemplary council	Thriving communities
A fair local economy that works for everyone	Good homes, green spaces, healthy places

Background to the report

8. A detailed report was presented to members of the Licensing and Public Safety Committee on 06/09/2022, advised members of the previous reports that have been presented to the committee regarding the possibility of a mandatory CCTV policy.
9. Under Government guidance, councils are expected to consider if mandatory installation of CCTV in licensed vehicles would have either a positive or an adverse effect on the safety of Hackney Carriage and Private Hire Vehicle users.
10. Members were advised at the meeting that reports have been previously taken to committee in 2018 and 2020, to explore the option of mandating CCTV within our licensed taxi and private hire vehicles, but as an authority we have not been able to evidence base a decision to mandate the CCTV for vehicles licensed by SRBC.
11. The report on 06/09/2022, stated that recently officers have received requests to explore the option of a mandatory CCTV policy again, from members of the trade and councillors.
12. At the meeting, members of the Licensing and Public Safety Committee agreed to proceed to a consultation exercise to explore the views of the taxi trade and also the general public, on mandatory CCTV.
13. Members agreed to receive a report advising of the results of that consultation exercise at a future meeting.
14. The report presented to members of the licensing and public safety committee can be found attached to the report as **Background document 1**.

The Purpose of CCTV

15. CCTV is widely seen as a way forward in safeguarding both drivers and passengers, giving confidence and reassurance to the public when they are travelling in a taxi as well as to drivers, who can also be victims of violence and abuse.
16. CCTV systems provide a safer environment for the benefit of the hackney or private hire drivers and passengers by:
 - Deterring and preventing the occurrence of crime
 - Reducing the fear of crime
 - Assisting the Police in investigating incidents of crime
 - Assisting insurance companies in investigating motor vehicle accidents

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17. CCTV can act as a deterrent to committing an offence as people are more likely to police their own behaviour, if they know they are being recorded.
18. Where an offence has taken place the images/audio recording that CCTV systems capture can provide important evidence in a criminal investigation.
19. CCTV creates reassurance to customers that the taxi they have entered is a safe environment.

Current Position

20. Currently the council does not mandate the use of CCTV in licensed vehicles, but does recommend the use of CCTV in vehicles, with the chosen system being approved by the council.
21. Any CCTV system installed, must comply with the current data protection requirements as directed by the Information Commissioner and be compliant with the council's policy wording. This gives the driver or vehicle's proprietor the option to install CCTV in their licenced vehicle at their own discretion.
22. It must be capable of storing image/audio files in a manner which are encrypted and prevent them being downloaded or viewed by the driver or any other person travelling in the vehicle.
23. Image/audio files may only be downloaded by an authorised officer of the Council or a Police Constable.
24. De-encryption software must be provided to the Council
25. A lifetime licence for the use of such software as may be required.
26. Must be a minimum of 2 CCTV signs which are clearly visible to passengers
27. The current policy wording can be found within section 19 of the report on 06/09/2022 within **Background Document 1**.

Considerations before mandating a CCTV policy

28. Consideration should to be given to the imposition of a condition making CCTV compulsory in vehicles, various factors should be taken into consideration, before deciding if or not a mandatory policy is the way forward, such as:
 - Proportionality and the need for an evidence base.
 - Legal Compliance, Specification and ICO recommendations.
 - Cost of implementation.
 - Incentives and trade buy in.

Proportionality and Evidence Base

29. To mandate a policy on CCTV there needs to be a clear local evidence base of an overwhelming need for CCTV within the area.

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30. Members may feel that the inherent vulnerability relating to licensed vehicles, where sometimes vulnerable people are unaccompanied in a car, with a stranger means that mandatory CCTV can be justified as a proactive and preventative measure. Specifically taking into account national high-profile cases that have happened historically.
31. However, the ICO and SCC are unlikely to consider that the simple basis of high profile CSE cases, for example in Rotherham and elsewhere as being a proportionate justification for implementing CCTV in South Ribble.
32. The assessment of proportionality and the justification for this, needs to be relevant to the local circumstances in which the policy will apply.
33. A local evidence base will need to be developed to support any proposal. The policy and Data Protection Impact Assessment (DPIA) should be explicitly linked to local circumstances.
34. This could include data from the licensing team around any specific cases where the presence of CCTV could have been beneficial, or any intelligence or incident data from police relating to SRBC licensed vehicles.
35. Clear ways to prove the need for CCTV in South Ribble would be through;
 - Crime statistics
 - Trade buy in
 - Public buy in
 - Public complaints received by the authority.
36. The council will need to ensure when considering what is an appropriate and proportionate approach to CCTV that this is based on evidence of issues identified in the local area.

Legal Compliance and Specification

37. GDPR data protection laws state that users of this technology need to carefully consider the personal privacy implications before implementing any kind of surveillance system.
38. The specification of the CCTV units would require meeting the requirements of the ICO.
39. Many CCTV systems in taxis are active whenever the vehicle is running. The camera operates continuously, even when the driver is using the taxi privately.
40. This would mean that the CCTV cameras are recording when the drivers are picking their children up from school, going shopping with the family, or travelling on holiday.
41. Taxi drivers are entitled to their own personal privacy particularly when they are not working. Any audio recording system should be able to be turned off when the vehicle is being used for personal purposes.

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42. Any CCTV system must also be registered with the ICO. According to the ICO, unfair and excessive processing of personal data is unlawful. Processing of personal data must be for a specific purpose or could be a breach of Article 8 of the Human Rights Act 1998, which states;

Article 8

Right to respect for private and family life

1 Everyone has the right to respect for his private and family life, his home and his correspondence.

2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

43. A requirement for continuous recording when a vehicle is being used in a private capacity is likely to be unlawful and unfair. Where the ICO has been made aware of councils implementing this approach, they have advised that the requirement for continuous recording is likely to be disproportionate to the problem it is trying to address.
44. To mitigate this concern, a simple but effective panic switch that is available for the driver and the passenger (1 switch in the front and 1 in the back) that engages the audio recording mechanism would need to be installed as part of the approved system.
45. The data on the CCTV hard drive is encrypted and the hard drive is locked away in a box (usually installed in the boot), the Council and the installer are the only key holder and the data is only retrievable by the Council or installer, therefore the Council is the Data Controller.
46. The specification of the CCTV unit is easily achievable and approved installers are available in the immediate area, the policy already permits CCTV on a voluntary basis, so the specification of the systems permitted would not change. The specification would be managed by officers in line with current technology and requirements from the ICO.
47. Audio recording is generally considered by the ICO to be more invasive of privacy than cameras and will therefore require much greater justification if a mandatory policy was to be agreed by members.
48. The ICO has looked closely at, and previously challenged, some licensing authorities on the CCTV policies they have implemented where it believes these go too far in terms of invasion of privacy or have not been adequately justified.

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49. CCTV may act as a deterrent and would be used to protect the driver from attacks and making off without payment.

Cost of Implimentation

50. The CCTV units are relatively modest in price with an an average price of between £390 £450 depending on the specification, which includes professional installation by an approved supplier.

51. The council current has around 214 licensed vehicles, the costing of a mandatory policy would be around £90,000 total

52. If funding were not avaiable to drivers and a mandatory policy were to be implemented, the cost would fall to the owner of the licensed vehicles to pay for the CCTV installation.

53. If any manditory policy were to be introduced, the council may be challenged legally, this could incure legal costs of defending a Judicial review against the policy and.or an appeal to the magistrates' court against the imposition of a condition on a taxi vehicle licence.

Trade Buy in

54. If a mandatory policy is to be decided, then drivers would require a satisfactory lead-in time before CCTV systems have to be fitted will enable them to save up or stagger the cost.

55. Incentive to the trade include, safeguarding drivers from assault/conflict with passengers, false accusations, making of without paying and often the price of vehicle insurance can be reduced when CCTV is installed.

56. Officers feel a revision of the existing tinted windows policy for vehicle proprietors installing CCTV would be the best way forward.

57. Replacing tinted windows in vehicles can be a costly exercise. The use of CCTV to mitigate the need to replace windows that are over the allowance of tint level, should be something committee should consider, to promote vehicle proprietors installing CCTV.

58. This policy requirement in itself is expensive and burdensome for the Industry with an average cost of £1000 to £1500 to change from factory fitted tinted windows to clear glass.

59. Often drivers need to revert from buying higher spec vehicles, as these types of vehicles usually have tinted windows. This having an effect on passenger comfort in vehicles.

60. Drivers often state to officers that they would much rather have CCTV imposed on them, if it meant that the windows in their vehicles did not need to be changed.

Data Protection Impact Assessment (DPIA)

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61. If a vehicle is equipped with CCTV because an authority's policy requires it, that means that the authority is the "data controller" – the council decides how and for what purposes the personal data being captured on the CCTV is used.
62. This means that the authority is accountable under data protection legislation for the processing of passenger and driver personal data.
63. A DPIA is a mandatory requirement before any CCTV policy is implemented.
64. A DPIA helps to identify and minimise the data protection risks of a CCTV policy and to answer fundamental but tricky questions, including:
 - what is our justification for requiring the use of CCTV?
 - when should the CCTV be operating?
 - should the driver be able to manually control the system?
 - for what purposes will we use the CCTV footage?
 - how do we ensure that the footage is kept secure and only used for authorised purposes?
 - should we allow audio-recording and, if so, in what circumstances?
 - how long should the footage be retained?
 - what are the risks to passengers' and drivers' data protection rights and interests?
65. As a local authority, we need to demonstrate we have conducted a DPIA before a mandatory CCTV policy is rolled out across South Ribble.
66. The full DPIA can be found attached to the report as **appendix 3**.
67. The critical starting point is for licensing authorities, is to be very clear about the problem that needs to be addressed and be able to justify why they consider mandating CCTV in taxis/ PHVs to be an effective solution.

Department for Transport (DfT) Statutory Standards

68. The Department for Transport (DfT) published its Statutory Taxi and Private Hire Vehicle Standards in July 2020 with a strong focus to protect all passengers and users of taxis and private hire transport services.
69. The statutory guidance makes it clear that the Government expects the recommendations contained within it to be implemented unless there is a compelling local reason not to.
70. The DfT's view is that CCTV can improve safety for passengers and drivers and makes it easier for incidents to be investigated.
71. The DfT states that All licensing authorities should consult, to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse effect, on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.

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72. A copy of the statutory standards section on CCTV can be found attached to the report as **appendix 5**.

Consultation Exercise and Statistics

Trade Consultation

73. Trade buy in is essential. The council need to know if drivers feel that mandating CCTV would safeguard them, if it would work as a deterrent from abusive passengers or dishonest claims against them.

74. Not all crimes are reported through to the police by the taxi trade, so a consultation of the trade is vital. If CCTV is not wanted by the trade, for what reason? Cost, personal privacy etc, they should be given chance to state this as part of a consultation exercise.

75. A consultation exercise was carried out in November/ December 2022, all members of the trade received a physical consultation document sent to their home address.

76. The level of responses from the trade were low- only 12 drivers responded. This could be due to various factors, including drivers being unsure or drivers may feel vulnerable to report offenses against them.

77. The results from the consultation can be found attached to the report as **Appendix 1**.

Public Consultation

78. A public consultation exercise was carried out throughout November – December 2022, to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults.

79. Summarised results of the public consultation can be found attached to the report as **Appendix 2**.

Complaints Made Against Drivers

80. In August 2022, the council decided to revoke two hackney carriage licences with immediate effect via standing order 38 of the council's constitution.

81. In the circumstance of an allegation against a driver, where the council must decide if or not to take immediate action the council must make a judgement if a person remains fit and proper to hold a licence, based on the evidence before officers.

82. In the two recent cases, CCTV would have assisted officers' clear evidence and given a clear indication of the action required in addition to other evidence obtained by officers.

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Police Crime statistics

83. Officers have approached Lancashire Police Constabulary for Crime statistics including drivers from South Ribble.
84. The statistics provided offences against taxi drivers in South Ribble over the past 12 months up to 15th December 2022.
85. The Police Inspector who provided the Data stated within his response that, the number of statistics provided, will be far lower than the actual figure of offences for two reasons.

Firstly, searching our systems for these offences rely on the inputting officer recording the keyword of taxi on the investigation.

"I can guarantee that there will be a good number on which this has not been done."

Secondly, our geographic areas changed during 2022 with Penwortham, Bamber Bridge, Lostock Hall etc being previously policed from Preston. I would have to search through hundreds of Preston crimes to identify which ones are actually South Ribble which unfortunately is not something I will be able to do.

Type of Investigations	Number of investigations
Making off without payment	18
Criminal damage with one being racially aggravated	7
Assault with one being racially aggravated	5
Threaten with a bladed article	1
Public order offences	2
Theft of items left in taxis by customers	2

86. It is worth noting that not all offences are reported through to the police because drivers may feel vulnerable to report offences against them.
87. Drivers may feel that taking time to report offences may eat into their time especially at peak times and may not want to use their valuable time when they could be earning money.

Additional consultation March 2023.

88. Following a meeting of the Senior Management Team (SMT) at the council in February, it was decided that the consultation of the trade should take place for a second time as the results received were low, did not evidence base the possibility of mandating CCTV.

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89. The results of the 2nd consultation again were low, with only 8 responses received, again a serious lack of support from the trade, with regards to mandating CCTV, with no real issues reported back from the trade.
90. The summary of responses to the 2nd consultation exercise can be found attached to the report as **Appendix 11**.

Conclusion

91. Following the consultation exercise and statistic collated within this report. Members are now asked to ultimately make an assessment, about what they consider to be proportionate in balancing; “the right to privacy with duties v’s safeguard the public” before deciding if this licensing authority should mandate CCTV as a policy requirement.
92. The Information Commissioner’s Office and Surveillance Camera Commissioners have given the strongest possible advice that mandatory CCTV is very difficult for licensing authorities to justify a strong evidence base, before imposing any such policy within our own taxi licensing policy.

Lack of evidence base to Mandate CCTV

93. As previously stated within the report all members of the trade, members of the general public were consulted for their views to establish their level of concern around their own personal safety and views about in-vehicle CCTV.
94. 252 consultation letters were posted out twice to the trade at their home address, as a result we only received 12 consultation responses.
95. The level of responses from the trade is obviously poor, and of those members of the trade who responded to the consultation, the feedback on serious offences, does not justify mandating a CCTV policy for our licensed drivers.
96. Only 2 reports each received regarding,
- Aggressive or Threatening Behaviour
 - Abusive / Racist customers / inappropriate conversations
97. It’s significant that the trade also reported 0 cases of assault.
98. Whilst over half reported the cost of implementation of a CCTV system had an implication on drivers choosing to install CCTV and half of the drivers said they had concerns around Privacy/Data protection issues.
99. The response indicate the trade feel it should be their own option to install the CCTV and not imposed on them.
100. The Committee also asked that officers report back on the number and nature of any complaints reported directly to the Licensing team that related to safeguarding issues as this may give an indication of the severity of the problem in our District.

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101. The evidence provided from the crime statistics and previous licensing cases, and public responses were better and gave some examples, but again there is little by way of a business case that mandatory CCTV is required in South Ribble.
102. The crime statistics on drivers are low, of the 35 crimes committed on drivers, 18 of those were simple making off without payment, 2 theft.
103. This leaves 15 serious cases out 252 licenced drivers and officers feel this would not justify the requirement for mandating CCTV in South Ribble licensed hackney and private hire vehicles as a safeguarding measure for the trade.

Risk of Mandating the CCTV

104. An important balance must be made between privacy and proportionality, the imposition of a mandatory policy could leave the council open to a successful judicial review from members of the licensing trade if they feel aggrieved by any decision taken to impose a CCTV policy upon them.

Proposal

105. Officers believe a mandatory requirement for CCTV would not be proportionate from the results of the consultations, police statistic and complaints made to the licensing authority.
106. However, the proposal to members is to continue a CCTV policy which outlines the requirements for those wishing to voluntarily install CCTV, in much more detail.
107. This with a new proposed policy wording that allows vehicles with installed CCTV, which is compliant with the policy, to be permitted windows with a higher level of tint than vehicles without CCTV installed.
108. The level of tint would only be permitted to original specification installed by the manufacturer of the vehicle. Officers would check this before issuing the vehicle a licence.
109. Officers feel CCTV negates the need for clear windows in licensed vehicles. It is a much more robust safeguarding measure.
110. Officers feel this would steer drivers into implementing CCTV in their vehicles, with clear cost saving between CCTV and changing the windows for the vehicle.
111. This would also see more drivers buy higher specification vehicles, which is a benefit to passenger comfort.
112. The new proposed CCTV Policy can be found attached to the report as **Appendix 10**.
113. Two additional paragraphs will be added to section 6.6 and 7.5 of the Taxi Licensing policy with regards to tinted windows

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Where a new vehicle presented to officers, with tinted windows that do not comply with sections 6.6 and 7.5 of the Taxi licensing policy,

If the vehicle is fitted with an approved CCTV system, as per the council's policy on CCTV, then the vehicle may have windows that permit less than the 50% light transparency providing those windows have been installed by the manufacturer from new.

114. The specification of the CCTV unit is easily achievable and approved installers are available in the immediate area.

Climate change and air quality

115. The work noted in this report does not impact the climate change and sustainability targets of the Council's Green Agenda and all environmental considerations are in place.

Equality and diversity

116. South Ribble Borough Council is responsible for the licensing of hackney carriage and private hire vehicles, drivers and operators.
117. This policy applies to all regardless of gender, age, disability, religious belief, race or ethnic minority or sexual orientation. No overall impacts have been identified across the equality strands within this report.
118. Please see the summarised outcome of the Equality Impact Assessment (EIA) attached to the report as Appendix 12.

Risk

119. The risks to the council unlawfully imposing a mandatory CCTV policy have been addressed in the report, in particular referring to proportionality and the need for an evidence base, if a mandatory policy is to be imposed the council will become the data controller of the CCTV, which brings in possible GDPR risks against the council, fundamentally if all requirements of the ICO have not been addressed before implementation of a mandatory policy.

Comments of the Statutory Finance Officer

120. There are no direct financial implications of this report. If there were decisions recommended suggesting Council contributions to any of this feedback, then a further report establishing a proposal and a new budget would be required.

Comments of the Monitoring Officer

121. The Council must have reasonable grounds for introducing mandatory CCTV in taxis. It would be for the Council to show that there is a problem in the borough, which is evidence based, to justify the need for an effective solution by way of mandating CCTV in licensed vehicles.
122. Introduction of a mandatory condition for internal CCTV in vehicles will require compliance with all relevant legislation including the Data Protection Act 2018, the Protection of Freedoms Act 2012, the Human Rights Act 1998 and any statutory guidance

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or codes in relation to the same and the completion of a detailed Data Protection Impact Assessment before any formal decision is taken by the Council.

123. An applicant for a vehicle licence may appeal against the refusal of the licence or the imposition of a condition to the magistrates' court within 21 days of the notice of the decision.

124. Any such policy must also operate in a way that does not cause undue interference with the human rights of taxi occupants, and work in a manner compatible with the requirements of the Information Commissioner Office and Surveillance Commissioner Code.

Background documents

Background Document 1 please following the link - to agenda Item 8

<https://southribbleintranet.moderngov.co.uk/ie/ListDocuments.aspx?CId=483&MId=2531&Version=4>

Appendices

Appendix 1 - Trade consultation summary

Appendix 2 - Public consultation summary

Appendix 3 - DPIA

Appendix 4 - LGA Guidance

Appendix 5 -DFT Statutory Standards

Appendix 6 - ICO Response to the DFT Statutory Standards

Appendix 7 - Surveillance Camera Commissioner consultation response to the DFT

Appendix 8 - Surveillance Camera Code of Practice

Appendix 9 - CCTV Regulators Code

Appendix 10 - New Policy Wording

Appendix 11 - 2nd Consultation Response

Appendix 11 - Equality Impact assessment

Report Author:	Email:	Telephone:	Date:
Chris Ward (Licensing Manager)	christopher.ward@southribble.gov.uk	01772 625330	16/06/2023

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Summary of the Trade Consultation

As a driver of a private hire or hackney carriage vehicle, have you ever suffered any of the below in the last 3 years?	Yes	No
Aggressive or Threatening Behaviour	2	9
Customer Not Paying the Fare	5	6
Abusive / Racist customers / inappropriate conversations	2	9
Physical Assault	0	11
Disability Discrimination	0	11

If you have answer yes to any of the above, do you feel that CCTV within the vehicle would have assisted or prevented any of the above?		
Yes	No	N/A
4	4	3

What implications are currently affecting you, choosing to install CCTV in your taxi/private hire vehicle ?	Yes	No
Cost of installation	8	3
Privacy/Data protection issues	6	5
Maintenance	2	9
Other	4	7

As a driver are you concerned about the financial burden from installing a CCTV system within your vehicle?	
Yes	No
8	3

If the council were able to assist in the cost of CCTV via the way of possible grants would you chose to install CCTV?	
Yes	No
6	5

Do you agree or disagree that all licensed vehicles should have internal CCTV installed?	
Yes	No
6	5

In addition to the responses to the consultation questions, a written response was also received from one driver who made the following points in support of a mandatory policy:

- *I welcome CCTV, sooner the better in my opinion.*
- *It protects both driver & customers alike. Also is favoured by many Insurance Companies.*
- *I have been an owner driver in South Ribble for over 20 years. I have experienced many things in this time.*

- *From being assaulted from behind (punch in the face).*
- *Along with people spitting at you threatening you. I have even had a knife pulled on myself & someone attempted to set fire to my vehicle.*
- *I also have had to handle some very dangerous delicate situations also over the years, wishing I had video & audio evidence I could use to protect myself.*
- *This will give great protection for everyone.*

Public Consultation

A public consultation exercise was carried out throughout November – December 2022

Do you agree that CCTV in licensed vehicles will benefit the safety of passengers using licensed vehicles?	
Yes	No
21	1

Do you have any local examples of when CCTV (video or audio) was or could have been beneficial to the safety of passengers using licensed vehicles?	
Yes	No
16	6

Do you agree that CCTV would benefit safety of our licensed drivers? - Choose yes or no	
Yes	No
21	1

Do you agree that video or Audio CCTV recording would reduce the fear of crime?	
Yes	No
18	4

Do you have any local examples where CCTV did or could have reduced the fear of crime?	
Yes	No
4	18

In your opinion, are there any adverse effects on the safety of passengers, including children or vulnerable adults, by installing CCTV in licensed vehicles? - Choose yes or no	
Yes	No
4	18

In addition, the public consultation, various comments in support of a mandatory policy were received on the council's social media page, summarised below.

Comments either in favour or against CCTV in taxis	
For	Against
16	0

South Ribble Borough Council TAXI CCTV DPIA

Name of controller	South Ribble Borough Council
Subject/title of DPO	Taxi CCTV Policy
Name of controller contact /DPO	Licensing Manager

Requirement for DPIA

Initial screening to identify if you need to complete a DPIA

This DPIA is a working document and will be kept on file and updated where reviews of the use of CCTV is conducted.

Question	Y/N
Will the project involve the collection of new information about individuals?	Y
Will the project compel individuals to provide information about themselves?	Y
Will information about individuals be disclosed to organisations or people who have not previously had routine access to the information?	Y
Are you using information about individuals for a purpose it is not currently used for, or in a way it is not currently used?	Y
Does the project involve you using new technology that might be perceived as being privacy intrusive? For example, the use of biometrics or facial recognition.	Y - The Project involves the use of CCTV in licensed vehicles, however the use of CCTV in general is now common place.
Will the project result in you making decisions or taking action against individuals in ways that can have a significant impact on them?	Y
Is the information about individuals of a kind particularly likely to raise privacy concerns or expectations? For example, health records, criminal records or other information that people would consider to be private.	Y
Will the project require you to contact individuals in ways that they may find intrusive?	N

Identify why your deployment of surveillance cameras requires a DPIA

- | | |
|---|--|
| <input type="checkbox"/> Systematic & extensive profiling | <input type="checkbox"/> Large scale use of sensitive data |
| <input checked="" type="checkbox"/> Public monitoring | <input type="checkbox"/> Innovative technology |
| <input type="checkbox"/> Denial of service | <input type="checkbox"/> Biometrics |
| <input type="checkbox"/> Data matching | <input type="checkbox"/> Invisible processing |
| <input type="checkbox"/> Tracking | <input checked="" type="checkbox"/> Targeting children / vulnerable adults |
| <input type="checkbox"/> Risk of harm | <input type="checkbox"/> Special category / criminal offence data |
| <input type="checkbox"/> Automated decision-making | <input type="checkbox"/> Other (please specify) |

What are the timescales and status of your surveillance camera deployment?

If the council chooses to mandate the use of CCTV within licenced taxis, a period of grace to would be required for vehicle proprietors to have the CCTV installed.

Officers would need to check compliance of the system installed. Taking this into account the policy would need to give a grace period of 6 months providing this is agreed by members of the council.

Officers would be able to use the discretion should issues arise around suppliers being unable to install systems by that proposed time period.

If the council chooses not to mandate CCTV it would be implemented immediately.

Where do you need to use a surveillance camera system and what are you trying to achieve?

CCTV is integral to the effective licensing and regulation of hackney carriage and private hire vehicles under the Local Government (Miscellaneous Provisions) Acts 1976 and 1982 and Town Police Clauses Act 1847 and 1875 as amended from time to time.

This places a responsibility on the Licensing Authority to protect the public by ensuring that only safe and suitable people hold a licence to carry passengers.

CCTV cameras can help deter crime, but also provide evidence of crimes which can be used by the police to apprehend perpetrators and used in court to achieve successful prosecutions. The deterrence of crime is the primary objective of this project, particularly to safeguard vulnerable passengers and reassure drivers.

Various requests have made by the taxi trade and trade representatives to explore the possibility of CCTV in licenced vehicles.

In the past, the Hackney Carriage and Private Hire trades have raised the issues of violence and theft against drivers in taxi trade forum meetings.

Current safeguarding measures in place

The trade have made reference that the current policies in place to safeguard customers in taxis and private hire vehicles are burdensome and not cost effective.

Currently without a mandatory CCTV policy in place, as a security function to safeguard passengers and drivers alike, the council only permits vehicles that have a light transparency of 50%.

The logic being that it's easier to see and witness any untoward behaviour happening in taxis when the windows are not tinted.

The cost of changing the windows in vehicles can vary but often reported from the trade as £1000 to £2000. Drivers complain that they would rather choose CCTV in vehicles and see this as a more cost-effective solution with CCTV costing around £400 for compliant systems.

The Council currently has a clear and signposted "report it" section within its website, a licensing email address and a customer contact centre both face to face and over the phone for members of the public to report issues with the licensing trade. From time to time the council will utilise its social media formats to promote issues being raised.

The council also has a clear whistle blowing policy for drivers alike, where drivers can report issues within the trade that they are aware could be taking place.

All complaints are investigated by officers, who obtain all available evidence, in deciding investigation outcomes.

Consultation Exercise and Statistics

To identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse effect, on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.

Not all crimes are reported through to the police, so a consultation of the trade and members of the public as users of taxi and private hire vehicles.

The council has advertised its consultation on CCTV for both the general public regular on social media and through a consultation webpage created on the Council's Taxi Licensing website,

In addition, officers attended a taxi trade forum where the CCTV consultation was a topic on the agenda.

Trade Consultation

Trade buy in is essential. The council need to know if drivers feel that mandating CCTV would safeguard them, if it would work as a deterrent from abusive passengers or dishonest claims against them.

If CCTV is not wanted by the trade, they should be given chance to state this as part of a consultation exercise.

A consultation exercise was carried out in November/ December 2022, all members of the trade received a physical consultation document sent to their home address.

The level of responses from the trade were low. This could be due to various factors, including drivers being unsure or drivers may feel vulnerable to report offenses against them.

The results from the consultation can be found summarised below.

As a driver of a private hire or hackney carriage vehicle, have you ever suffered any of the below in the last 3 years?	Yes	No
Aggressive or Threatening Behaviour	2	9
Customer Not Paying the Fare	5	6
Abusive / Racist customers / inappropriate conversations	2	9
Physical Assault	0	11
Disability Discrimination	0	11

If you have answer yes to any of the above, do you feel that CCTV within the vehicle would have assisted or prevented any of the above?		
Yes	No	N/A
4	4	3

What implications are currently affecting you, choosing to install CCTV in your taxi/private hire vehicle ?	Yes	No
Cost of installation	8	3
Privacy/Data protection issues	6	5
Maintenance	2	9
Other	4	7

As a driver are you concerned about the financial burden from installing a CCTV system within your vehicle?	
Yes	No
8	3

If the council were able to assist in the cost of CCTV via the way of possible grants would you chose to install CCTV?	
Yes	No
6	5

Do you agree or disagree that all licensed vehicles should have internal CCTV installed?	
Yes	No
6	5

Public Consultation

A public consultation exercise was carried out throughout November – December 2022, to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults.

Do you agree that CCTV in licensed vehicles will benefit the safety of passengers using licensed vehicles?

Yes	No
21	1

Do you have any local examples of when CCTV (video or audio) was or could have been beneficial to the safety of passengers using licensed vehicles?

Yes	No
16	6

Do you agree that CCTV would benefit safety of our licensed drivers? - Choose yes or no

Yes	No
21	1

Do you agree that video or Audio CCTV recording would reduce the fear of crime?

Yes	No
18	4

Do you have any local examples where CCTV did or could have reduced the fear of crime?

Yes	No
4	18

In your opinion, are there any adverse effects on the safety of passengers, including children or vulnerable adults, by installing CCTV in licensed vehicles? - Choose yes or no

Yes	No
4	18

In addition, the public consultation, various comments in support of a mandatory policy were received on the council's social media page, summarised below.

Comments either in favour or against CCTV in taxis	
For	Against
16	0

Complaints Made Against Drivers

In August 2022, the council decided to revoke two hackney carriage licences with immediate effect under - standing order 38 of the council's constitution.

In the circumstance of an allegation against a driver, where the council must decide if or not to take immediate action the council must make a judgement if a person remains fit and proper to hold a licence, based on the evidence before officers, in the two recent cases, CCTV would have assisted officers clear evidence and given a clear indication of the action required in addition to other evidence obtained by officers.

Police Crime statistics

Officers have approached Lancashire Police Constabulary for Crime statistics including drivers from South Ribble.

The statistics provided offences against taxi drivers in South Ribble over the past 12 months up to 15th December 2022.

Type of Investigations	Number of investigations
Making off without payment	18
Criminal damage with one being racially aggravated	7
Assault with one being racially aggravated	5
Threaten with a bladed article	1
Public order offences	2
Theft of items left in taxis by customers	2

It is worth noting that not all offenses are reported through to the police, drivers may feel vulnerable to report offenses against them. Drivers may feel that taking time to report offences may eat into their time especially at peak times and may not want to use their valuable time, when they could be earning money.

Whose personal data will you be processing, and over what area?

The system will be able to record internal video footage of the driver and any passengers in the vehicle when the vehicle is being used as for private hire or hackney carriage use.

Passengers can be anybody, including children or vulnerable groups. Where external facing cameras are installed, other vehicles including number plates will be captured, along with images of pedestrians

Who will be making decisions about the uses of the system and which other parties are likely to be involved?

It is likely that the police will request data to assist with their investigations as well as Licensing Services.

The licence holder must comply with valid information requests, in consideration of The Data Protection Act (2018) and General Data Protection Regulations (GDPR).

Data must be shared securely, and requests must be fulfilled without charge. Data must only be shared for the following reasons:

- a) where a crime report has been made involving the specific vehicle and the Police have formally requested that data.
- b) when a substantive complaint has been made to the licensing authority regarding a specific vehicle / driver and that complaint is evidenced in writing (and cannot be resolved in any other way).
- c) where a Data request is received from an applicant e.g. police or social services, that has a legal basis to have access to the data requested to assist them in an investigation that involves a licensed vehicle or driver.
- d) Subject Access Request compliant with the GDPR. The DPA gives individuals the right to see information held about them, including CCTV images of them.

Each data request must be considered on its own merits by the Data Controller and whether it would be lawful.

The data will automatically overwrite after a maximum of 30 consecutive days.

The data is held in an encrypted format using encryption software that meets or exceeds the current FIPS 140-2 (level 2) standard or equivalent.

The system is held securely within the vehicle and it cannot be accessed remotely.

Only authorised staff will be trained and have access to the software necessary to complete the download.

We currently have 4 members of the Licensing team who by the time of implementation, will have received training on the use and operation of the system.

All staff must complete mandatory data protection training.

A CCTV Download Request form will be completed, which will record the officer who has authorised the download and the officer performing the download and the outcome.

Only the required period on the date stamp will be downloaded

The data will be held in the licensing drives, which will be stored securely on the council's server and it will only be capable of being accessed by an authorised officer.

All law enforcement agencies (LEA), including the police, will be required to complete a download request form.

The licensing Manager will carry out an assessment of the request to ensure that there is a legal gateway to request the data and the request is consistent with the CCTV policy for release of data.

- To ensure operational integrity of the solution and the recording,
- Where a crime report has been made involving the specific vehicle and a LEA have formally requested the data,
- When a substantive complaint has been made to the licensing authority regarding a specific vehicle / driver,
- Where a data request is received from an applicant that has a legitimate requirement to have access to the data requested to assist them in an investigation that involves a licensed vehicle or driver,
- When requested as a Subject Access Request. Please refer to Appendix C WBC CCTV download policy.

The CCTV Request Download Form will be retained to show the decision making of the authorising officer and the outcome of the download itself.

This will only record if footage was or was not downloaded; the time length of the downloaded footage; if a copy was provided to the LEA; and date of removal of the CCTV from the standalone laptop.

The original data held on the CCTV system within the vehicle will be automatically overwritten after a maximum of 30 days.

Any downloaded data will be deleted from licensing files within 14 days of data being served on any LEA.

Any subject access requests received from data subjects (drivers or passenger etc) will be processed in line with the Council's subject access request procedure.

As part of the validation of the request, we would require copies of identification to be provided.

In order to provide the information, the Council may need to ask for further information or clarification to help identify the time period relating to the data subject. As part of the process we would also consider whether any other data subjects feature and whether there is a requirement to pixelate aspects of the footage. This would be reviewed on a case by case basis.

How is the information Collected, Stored and destroyed?

- | | |
|--|---|
| <input checked="" type="checkbox"/> Fixed CCTV (networked) | <input type="checkbox"/> Body Worn Video |
| <input type="checkbox"/> ANPR | <input type="checkbox"/> Unmanned aerial systems (drones) |
| <input type="checkbox"/> Stand-alone cameras | <input type="checkbox"/> Re-deployable CCTV |
| <input type="checkbox"/> Other (please specify) | |

System type

System with audio capability with standard recording time or system trigger.

It is considered to be an excessive invasion of privacy to continually record conversations in a licensed vehicle.

The Technical Specification therefore requires a system trigger to be installed to record audio in the event of an incident.

The audio must only be activated in the event of an incident occurring.

The system will return to normal non-audio default operation within a short period of time (approximately 3-5 mins depending on supplier configuration).

The recording period can be extended by using the system trigger to reactivate the system, however, this should only be done if the incident continues beyond the default period.

The provision of a system trigger minimises the risk of excessive recording and has been specified for this reason.

It allows the driver to take another passenger after the incident and upon completion of default recording period due to the short period(s) of time the audio can be activated for.

The system indicators will show when the audio has been activated and when the system has returned to the default of no audio recording.

Stored data

The licence holder will choose a system from a list of approved installers as per the proposed licensing policy.

CCTV systems will need to be compliant with requirements for audio recording of conversations to only be recorded when a panic switch is either activated by the driver or by the passenger.

Any CCTV system installed, must comply with the current data protection requirements as directed by the Information Commissioner and be compliant with the council's policy wording.

Constant recording of conversations is highly intrusive to people's data rights and unjustified in meeting the purpose of preventing and evidencing crimes.

The system will be able to record internal video footage of the driver and any passengers in the vehicle when the vehicle is being used as for private hire or hackney carriage use.

The CCTV system must be capable of storing image/audio files in a manner which are encrypted and prevent them being downloaded or viewed by the driver or any other person travelling in the vehicle. Footage is retained for maximum 30 days and then overwritten.

Image/audio files may only be downloaded by an authorised officer of the Council or a Police Constable.

De-encryption software must be provided to the Council

All captured images must be protected using encryption software that meets or exceeds the current FIPS 140-2 (level 2) standard or equivalent.

Collection of data

The method of data download is determined by the technical specification of the camera system installed.

These fall in to two categories;

download achieved via cable connection between the recording device and a standalone laptop council encrypted laptop.

or removal of the SD card from the recording device and the SD card inserted in to the encrypted laptop to download the footage onto the encrypted licensing drive.

HDD inserted into HDD reader attached to encrypted council laptop to download the footage onto the encrypted licensing drive .

The data is downloaded in an encrypted format onto the council laptop installed with specialist software from which to view the appropriate footage.

The data download will be restricted / limited to the period specified on the Authorised Download Request form

Each request will be assigned a unique reference number. The data remains encrypted throughout the process. The technical specification makes provision for the data to be provided in a standard DVD video format, suitable for playing on a PAL format region 2 player.

Should the download footage be required to be produced in a format that the requester can take away as evidence in an investigation the download footage will be burnt to a DVD.

This will be issued to the requester with the downloading officer witness statement and the requesting officer will need to sign for receipt of the evidence.

If data is being disclosed, how will this be done?

How is the information used?

- Monitored in real time to detect and respond to unlawful activities
- Monitored in real time to track suspicious persons/activity
- Compared with reference data of persons of interest through processing of biometric data, such as facial recognition.
- Compared with reference data for vehicles of interest through Automatic Number Plate Recognition software
- Linked to sensor technology
- Used to search for vulnerable persons
- Used to search for wanted persons
- Recorded data disclosed to authorised agencies to support post incident investigation, including law enforcement agencies
- Recorded data disclosed to authorised agencies to provide intelligence
- Other (please specify)

When the Data Controller shares data as the result of a lawful request, this must be via a secure method as outlined in the policy, such as:

- Secure email
- Encrypted email
- Encrypted data drive
- Encrypted disc/pen drive transferred directly or via a secure courier/mailing service.

What is your lawful basis for using the surveillance camera system?

There are six available lawful bases for processing under the Data Protection Act 2018 (DPA 2018),

- Consent
- Performance of a Contract
- Legitimate Interest
- Vital Interest
- Legal Requirement
- Public Interest

The Council recognises that these are of equal importance. CCTV is there to assist the Local authority in complying with the regulatory function and to detect and deter crime and, in extreme situations, to protect life, however, the Council does not seek to rely on vital interests for the purpose of processing data and will be processing the information under Article 6 of the GDPR: Lawfulness of processing:

Processing shall be lawful only if and to the extent that at least one of the following applies:-

(e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.

<u>Purpose</u>	<u>Lawful Basis</u>
Safeguard vulnerable passengers	Public task: the processing is necessary to perform a task in the public interest or for official functions, and the task or function has a clear basis in law
Protect Drivers from unjustified allegations	Public task: the processing is necessary to perform a task in the public interest or for official functions, and the task or function has a clear basis in law.
Prevention and detect crime	Public task: the processing is necessary to perform a task in the public interest or for official functions, and the task or function has a clear basis in law.
Reassurance of the general public	Public task: the processing is necessary to perform a task in the public interest or for official functions, and the task or function has a clear basis in law.

Legal basis

For the processing of personal data GDPR Article 6 1(e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;

The basis for the processing referred to in point (e) of shall be laid down by:

1. Union law; or
2. Member State law to which the controller is subject.

The relevant law is: Local Government (Miscellaneous Provisions) Act 1976 Part II Section 51. This contains the statement;

“(2)A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.”

Section 111 Local Government Act and Section 1 Localism Act provide the legal powers which allow the Council to undertake the above.

For the processing of special category data GDPR Article 9 1(g) processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.

The function is conferred on a person by an enactment or is of a public nature and is exercised in the public interest.

Evidence can be provided to the Police under the provisions of the Police and Criminal Evidence Act 1984.

Licensing is a function that is designed to protect the public against unfitness or incompetence and is of a public nature and is exercised in the public interest to protect persons other than those at work (i.e. the public) against risk to health or safety arising out of or in connection with the action of persons at work (i.e. a private hire/hackney carriage driver).

This information will be recorded in the interests of public safety, crime detection and crime prevention.

Other Law Enforcement Agency (LEA) such as HM Revenue & Customs; HM Border Force and services within the Council such as Trading Standards and Environmental Crime would also have the necessary criminal investigatory powers to request CCTV footage as under statutory legislation or via the gateway under Data Protection Act 2018.

How will you inform people that they are under surveillance and ensure that they are provided with relevant information?

Any vehicle fitted with a minimum of 2 CCTV signs clearly visible and readable to passengers.

Must be visible before and after entering the vehicle.

The signage must contain:

- The purpose for using the surveillance system, "in the interests of public safety, crime detection and crime prevention".
- The name and contact number of the Data Controller

Signage would be a condition of the road worthiness test performed 6 monthly by approved garages as is the requirement for other signage on vehicles.

Policies will be made available on the council's taxi licensing webpage, publicly accessible.

A social media campaign will advertise the use of CCTV in licenced vehicles before the policy is implemented.

Additional signage to be placed above audio recording switch.

How will you ensure that the surveillance is limited to its lawful purposes and the minimum data that is necessary for those purposes?

The Data Controller must comply with valid information requests, in consideration of The Data Protection Act (2018) and General Data Protection Regulations (GDPR).

Data must be shared securely, and requests must be fulfilled without charge. Data must only be shared where there is a valid lawful reason, such as;

- a) where a crime report has been made involving the specific vehicle and the Police have formally requested that data.
- b) when a substantive complaint has been made to the licensing authority regarding a specific vehicle / driver and that complaint is evidenced in writing (and cannot be resolved in any other way).
- c) where a Data request is received from an applicant e.g. police or social services, that has a legal basis to have access to the data requested to assist them in an investigation that involves a licensed vehicle or driver.
- d) Subject Access Request compliant with the GDPR.

The DPA gives individuals the right to see information held about them, including CCTV images of them.

This list is not exhaustive, and it is the responsibility of the Data Controller to consider the lawfulness of requests to share information in line with UK Data Protection Law.

The driver will not have access to the system, so any requests for footage would need to be referred onto the licensing authority who would make the assessment under the criteria above.

Vehicle proprietors will not have access to the data, breaches of the Taxi CCTV Policy will result in enforcement action against the licence holder

Retention Procedure

- Data automatically deleted after retention period
- System operator required to initiate deletion
- Under certain circumstances authorised persons may override the retention period, e.g. retained for prosecution agency (please explain your procedure)

Is there a written policy specifying the following?

The agencies that are granted access

How information is disclosed

How information is handled

Are these procedures made public? Yes No

Are there auditing mechanisms? Yes No

If so, please specify what is audited and how often (e.g. disclosure, production, accessed, handled, received, stored information)

Describe source of risk and nature of potential impact on individuals. Include associated compliance and corporate risks as necessary	Likelihood of harm Remote, possible or probable	Severity of harm Minimal, significant or severe	Overall risk Low, medium or high	Options to reduce or eliminate risk	Effect on risk Eliminated reduced accepted	Residual risk Low medium high	Measure approved?
Risk that the CCTV systems are used inappropriately/ incorrectly	Possible	Significant	Medium	All licence holders are required to undergo a 'fit and proper' test. Breaches of the Taxi CCTV Policy would result in a review of their licence.	Reduced	Low	
Capturing excessive data	Probable	Significant	Medium	The policy informs people of their legal responsibilities and acts as a deterrent from breaking the law and policy. Systems comes equipped with an independent sound recording facility, it must be turned off or disabled in some other way, proposed systems use a switch illuminated and signposted within the vehicle which must be manually switched on.	Reduced	Low	
Vehicle occupants uninformed that they are being recorded.	Probable	Minimal	Low	Signage advising of the surveillance cameras to	Reduced	Low	

				<p>be clearly visible from all seats.</p> <p>Public consultation, advertisements on social media</p> <p>audio recording will only begin if a panic button is pressed or someone shouts in the vehicle.</p>			
Unauthorised access to data	Possible	Severe	High	System must store data securely and the Data Controller may only share data when a lawful request is received.	Reduced	Medium	
Unauthorised access to data				Data transferred securely, by agreed method.	Reduced	Low	
Unauthorised access to data				Data recording will not be displayed within the vehicle	Reduced	Low	
				Where licence holders' have shared footage unlawfully, they will be liable to criminal prosecution. Unlawful sharing is a breach of UK Data Protection law and	Reduced	Low	

				<p>is considered a breach of policy.</p> <p>This is recorded in the policy and informing people they are criminally and financially liable for any misuse may deter people from doing so.</p>			
				<p>Data must only be transferred following a legitimate and lawful data request.</p>	Reduced	Low	

Item	Name/position/date	Notes
Measures approved by:		Integrate actions back into project plan, with date and responsibility for completion
Residual risks approved by:		If accepting any residual high risk, consult the ICO before going ahead
DPO advice provided:		DPO should advise on compliance, step 6 measures and whether processing can proceed
Summary of DPO advice:		
Comments:		
This DPIA will kept under review by:	Chris Ward	The DPO should also review ongoing compliance with DPIA

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Developing an approach to mandatory CCTV in taxis and PHVs

Foreword

Councils work hard to ensure that only those fit to drive taxis and private hire vehicles (PHVs) are licensed to do so, and the vast majority of drivers across the country work hard to provide a good service to their passengers, many of whom rely on this vital service.

However, we cannot avoid the fact that over recent years there have been a number of high profile cases of licensed drivers abusing their passengers' trust, including serious cases of child sexual exploitation (CSE).

It is vital that licensing teams understand how they can contribute to the safeguarding agenda. We have various tools at our disposal to enhance safeguarding in our licensing work, including introducing a requirement for CCTV systems in licensed vehicles.

A number of councils have taken the decision to mandate CCTV systems, whether cameras or cameras and audio recording, as a way to further safeguard passengers and drivers. First and foremost, the presence of CCTV acts as a deterrent to criminal or other poor behaviour, but it also provides vital evidence in situations where an incident has been reported, which otherwise may have been one person's word against another.

It is incumbent on all of us to review our policies and procedures to make certain we are taking all possible steps and using the tools available to us to protect the vulnerable. We have developed this guidance to bring together some of the questions that authorities may want to consider if they are thinking about introducing a mandatory CCTV policy for licenced vehicles in their area.

The guidance reflects on approaches taken by authorities which already mandate CCTV and on the importance of striking a balance between passenger safety and privacy, reflecting the position of the Information Commissioner and Surveillance Camera Commissioner as the regulators. It is intended to be used as a starting point for exploring some of the key issues and how these might apply at a local level.

We hope you find it useful.



Councillor Simon Blackburn
Chair, LGA Safer and Stronger Communities Board

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Introduction

Taxis and private hire vehicles (PHVs) are a vital part of local transport networks. Alongside their importance to the local night-time and visitor economies in particular, they are a key way of supporting more vulnerable local residents; for example by transporting children to and from school or providing a door-to-door service for elderly and disabled users, many of whom would otherwise struggle to access local amenities. The number of journeys made using taxis/PHVs continue to rise and in 2018 the number of licenced vehicles reached a record high of 285,400.

The key role of licensing authorities is to ensure a safe and effective local taxi and PHV service and, following recent cases where taxis and PHVs were used to facilitate appalling instances of child sexual exploitation (CSE) this area of councils' work has been under intense scrutiny. Both Professor Alexis Jay and Dame Louise Casey CB's reports into CSE in Rotherham highlighted the vital role that effective regulatory and enforcement functions play in preventing and disrupting CSE. In response, councils have been reviewing existing taxi and PHV licensing policies to ensure the right measures are in place to protect members of the public when using taxis/PHVs.

As part of broader work to strengthen safeguarding measures within the taxi/PHV service, some licensing authorities have begun to look at the use of in-vehicle cameras and audio recording (CCTV systems) and a small number of authorities already mandate the use of CCTV systems in licenced vehicles.¹

¹ Licensing authorities who have mandated cameras in vehicles are: Brighton and Hove, East Riding, Exeter, Gravesham, Portsmouth, Warrington and Worthing. Those mandating both cameras and audio are: Cambridge, Herefordshire, Rossendale, Rotherham, and Southampton.

Many more councils allow the use of CCTV systems in taxis/PHVs or have a voluntary scheme in place – latest figures² from the Department for Transport (DfT) show around 95 per cent of councils allow the use of CCTV in taxis/PHVs.

Whilst there has been relatively little guidance published which relates specifically to the use of CCTV in taxis/PHVs, there is a range of more general advice which it is important for authorities to be aware of. The Protection of Freedoms Act 2012 (PoFA) implemented the Home Secretary's Surveillance Camera Code of Practice (SC Code)³ which provides guidance on the appropriate and effective use of surveillance camera systems by 'relevant authorities' and is particularly significant. As relevant authorities (under s.33 of the Protection of Freedoms Act 2012) licensing authorities have a statutory duty to demonstrate regard to the SC Code where cameras are deployed in public places⁴, which includes taxis/PHVs.

The SC Code is designed to provide a framework for those operating and using surveillance camera systems to ensure use of surveillance is proportionate and transparent, and the systems used are capable of providing good quality images (or other information) which are fit for purpose.

² www.gov.uk/government/statistics/taxi-and-private-hire-vehicle-statistics-england-2018

³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/282774/SurveillanceCameraCodePractice.pdf

⁴ 'Public place' has the meaning given by S.16(b) of the Public Order Act 1986 and is taken to include any highway and any place to which at the material time the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.

The code sets out 12 guiding principles and where a licensing authority is considering mandating CCTV systems in taxis/PHVs they must have particular regard to guiding principle one, which is: 'Use of a surveillance camera system must always be for a specified purpose which is in pursuit of a legitimate aim and necessary to meet an identified pressing need'. The code is clear that a mandatory policy around CCTV systems in taxis will require strong justification and should be kept under regular review.

Reference to the use of CCTV systems in taxis/PHVs is made in existing best practice guidance published by the Department for Transport (DfT) in 2010, which suggests that local authorities encourage its use. It is likely that the DfT's new statutory/best practice guidance, due for consultation in early 2019 will say more about the use of CCTV in taxis and PHVs in relation to the role it can play in safeguarding both passengers and drivers.

Terminology

Some local authorities use the term **taxi camera**, instead of **CCTV** as they feel this may be misleading to the public, invoking the idea of surveillance and suggesting that footage is being monitored live. However, for clarity we use the term **CCTV** throughout this document.

Purpose of LGA guidance

Amongst those councils that already mandate CCTV systems, there is a range of different requirements around how and when the systems are used, and the types of systems that can be fitted. It is important that individual licensing authorities make their own decisions about what the best approach to CCTV is, based on the local context. The intention of the Local Government Association's (LGA) guidance is to outline some of the key issues to consider for authorities who are exploring mandating the use of CCTV systems in taxis/PHVs.

The guidance aims to help local authorities to comply with their legal responsibilities when considering mandating CCTV and is based on guidance from key organisations such as the Information Commissioner's Office (ICO), the Surveillance Camera Commissioner (SCC) and the experience of councils who already require CCTV in taxis/PHVs. The document also touches on some of the ongoing debates about the proportionality of requiring CCTV. The guidance reflects changes to legislation brought in by the General Data Protection Regulation (GDPR), implemented in the UK via the Data Protection Act (DPA) 2018.

The document is more heavily weighted towards the practical issues that councils will need to consider in implementing a mandatory approach to CCTV, rather than the safeguarding justification for doing so. This is because councils will need to make their own assessment of whether CCTV is the right solution based on the local context.

This guidance makes reference to a number of licensing authorities which have already mandated the use of CCTV. We thank all the councils involved in the development of this document for their help.

Alongside reading this guidance, authorities may also wish to consult experts within your councils about the deployment of CCTV in taxis/PHVs; this could be the person who manages your town centre CCTV scheme and/or your data protection officer.

Overview – benefits and challenges of CCTV in taxis/PHVs

There is an inherent, structural vulnerability relating to taxis and PHVs: getting into a taxi/PHV, an individual puts themselves under the control of a stranger in a confined space with no physical control over where they are taken. The primary role of the licensing regime is to manage this risk, in particular by satisfying themselves that only those who are fit and proper to do so hold a licence.

CCTV systems can act as an additional safeguard, providing protection, confidence and reassurance to the public when they are travelling in a taxi or PHV as well as to drivers, who can also be victims of violence and abuse. Mandating CCTV has been seen by some authorities as a proactive preventative measure that can be taken to protect passengers and drivers. It can act as a deterrent to committing an offence as people are more likely to police their own behaviour. Where an offence has taken place the images/audio recording that CCTV systems capture can provide important evidence in a criminal investigation.

Some licensing authorities have introduced voluntary, rather than mandatory, CCTV schemes. However there is evidence that there has been limited take up of these, even where authorities have offered to pay for a percentage of installing the system. Mandating CCTV will by definition ensure greater take up, and can also lead to greater consistency, with authorities able to set out and oversee clear specifications, guidelines and procedures on a range of issues including the type of systems used and information governance.

Sheffield pilot scheme

Following a string of attacks against drivers in the city, in December 2006 Sheffield piloted a CCTV scheme. The pilot involved 33 vehicles (eight taxis and 25 PHVs) and ran for six weeks, three weeks without cameras and three weeks with a camera fitted, with drivers reporting back at the end of the six week trial.

A subsequent report based on drivers' feedback suggested that there had been a large reduction in incidents from an average of one in seven fares to less than one in 100 fares, with a very significant reduction in incidents of threats and violence. In addition to the benefit to drivers there was some positive anecdotal feedback from passengers, particularly lone females, who said that they felt safer when there was a camera installed.

Report of the Sheffield taxi safety camera pilot study (February 2007)
www.calderdale.gov.uk/nweb/COUNCIL.minutes_pkg.view_doc?p_Type=AR&p_ID=3412

Key considerations

It is useful be aware of some of the key considerations as well as challenges that councils may face with plans to introduce mandatory CCTV systems both from members of the public, regulators and the trade.

Views of the trade

Many areas across the country will have active taxi/PHV trade groups or associations who may oppose plans to mandate the use of CCTV systems. Reasons could include the financial burden of installing CCTV systems that meet the agreed specification or invasion of drivers' privacy. It is therefore important to work with the trade as early as possible when considering a policy on CCTV systems, and ensure that key messages around why this approach is being considered, and the potential benefits to drivers, are clearly communicated. Issues raised by the trade can then be considered and where possible addressed as plans develop.

Sections of the taxi/PHV trade have already challenged some licensing authorities around mandatory CCTV. In some cases legal challenges have been brought. However, at the time of writing, magistrates have so far rejected challenges where councils were able to demonstrate that they had taken issues raised by the trade into consideration when developing policies.

The intrusive capabilities of CCTV means that there will need to be careful consideration of the impact it will have on privacy and how it can be used in a way that is sensitive and transparent so as to maintain both drivers and the public's confidence in its use. Proposals will need to clearly set out how privacy issues have been considered and how any issues raised have been mitigated. Consideration of these issues will need to be demonstrated through a data protection impact assessment (DPIA), which is required to be carried out before the roll-out of any intrusive surveillance system, including CCTV. The Surveillance Camera Commissioner has worked with the Information Commissioner's Office to develop a surveillance camera specific impact assessment template (updated in October 2018) available on the Surveillance Camera Commissioner's website.⁵ Both privacy issues and legal requirements around data protection are discussed in full later in this guidance.

⁵ www.gov.uk/government/publications/privacy-impact-assessments-for-surveillance-cameras

Whilst the focus is often on how CCTV systems positively impact on passenger safety, there is also a strong argument for the benefits it has for drivers' safety. As well as acting as a deterrent, CCTV systems will also help to provide evidence in case of an incident being reported. Authorities will be familiar with cases where an incident has been reported by a passenger relating to a drivers conduct or vice versa which are extremely difficult to prove. Footage from CCTV systems can provide vital evidence, and even prevent drivers from losing their licence if an accusation is proven to be false. However, compliance with the PoFA and the SC Code is vital if CCTV evidence is to be used in court.

In some places the trade have actively called for the council to introduce CCTV in taxis/PHVs to protect drivers' safety. Whilst based on only a small sample, analysis of a pilot scheme in Sheffield (see case study, page 6) suggested that, where taxis/PHVs were fitted with CCTV systems, there was a significant reduction in incidents. More recently in 2012, Brighton and Hove Council surveyed drivers asking whether they agreed with the current policy of all vehicles having CCTV, six months after the policy was introduced. Seventy-two per cent of hackney carriage drivers and fifty four per cent of private hire respondents were supportive of the policy.⁶

Early engagement with the trade can be useful in understanding their experiences and what particular issues they face in the local area, information gathered can form part of an evidence base for a policy and DPIA. This will also ensure compliance with guiding principle three⁷ of the SC Code which requires meaningful consultation with groups impacted upon by CCTV. Collating statistics and any incident data relating to taxis/PHVs from your local police force will also help to build a picture of the local context to inform an impact assessment.

⁶ See page 119 <https://present.brighton-hove.gov.uk/Published/C00000116/M00004177/AI00030770/Enc1forHackneyCarriageUnmetDemandSurveyv2.pdf>

⁷ There must be as much transparency in the use of a surveillance camera system as possible, including a published contact point for access to information and complaints.

Other benefits to drivers of installing CCTV include the potential to realise savings on insurance premiums, which may help to offset the upfront cost of purchasing and installing the systems. For example, some insurance providers have offered drivers who have forward facing cameras fitted in addition to the interior ones, a reduction to their insurance premiums of around 10 –to 15 per cent (a saving of around £200-£250 per year). Rotherham estimated that the average saving on insurance would pay for the cost of the CCTV system within two years. The initial cost of CCTV systems can also be offset against tax (for those drivers who reach the income tax threshold).

In practical terms considering the cost of CCTV systems and how this can be managed is something that can be done as part of an implementation schedule discussed on page 24. Giving drivers enough of a lead-in time before CCTV systems have to be fitted will enable them to save up or stagger the cost.

Privacy and proportionality

The use of CCTV is intrusive and its use is subject to data protection and human rights laws. Members of the public, drivers, the Surveillance Camera Commissioner (SCC) and the Information Commissioners Office (ICO) may all raise concerns about the impact of mandatory CCTV systems on privacy, and this has been a key issue for licensing authorities that have already mandated CCTV in taxis/PHVs.

The Surveillance Camera Commissioner's blog on CCTV in taxis⁸ provides a useful summary of the broad legislative framework that local authorities need to consider, including the Data Protection Act 2018 (DPA) and the PoFA 2012. The Commissioner's speech to the National Association of Taxi Drivers in 2015 also provides helpful context.⁹

Councils will need to think through the privacy implications of mandating CCTV and satisfy themselves that where they choose to mandate CCTV, they have adequate justification for choosing this approach and that they meet the requirements of legislation and associated codes of practice on privacy, proportionality and data protection. However, while there are steps that can be taken to try to ensure compliance with the overarching framework and codes, licensing authorities will ultimately be making an assessment about what they consider to be proportionate in balancing the right to privacy with duties to safeguard the public. There are various tools provided by the SCC which will help when considering the implementation of CCTV in taxis including the Buyers' Toolkit¹⁰

which is an easy-to-follow guide for non-experts who are considering the use of a CCTV system, and the Passport to Compliance¹¹ which is a set of documents that will guide authorities through the relevant principles within the SC Code and will help to ensure a system complies with the code.

Different authorities may take different views on CCTV and what is considered to be a proportionate approach may differ from one area to another, depending on the local context: each policy and DPIA should be explicitly linked to local circumstances.

Some authorities have implemented policies that require mandatory CCTV only when a vehicle is in use as a taxi or PHV, ie there is a 'switch off' facility for when a vehicle is being used for private purposes. Others have sought a 24/7 approach in which CCTV automatically operates when an engine is running, regardless of whether there is a passenger in the vehicle. It is worth noting that the Information Commissioner has addressed this specific point in a recent blog post¹² suggesting that a requirement for continuous recording when a vehicle is being used in a private capacity is likely to

8 <https://videosurveillance.blog.gov.uk/2018/08/28/cctv-in-taxis-are-you-talking-to-me>

9 www.gov.uk/government/speeches/surveillance-camera-commissioners-speech-to-the-national-taxi-association-agm

10 www.gov.uk/government/publications/surveillance-camera-commissioners-buyers-toolkit

11 www.gov.uk/government/publications/passport-to-compliance

12 <https://ico.org.uk/about-the-ico/news-and-events/blog-continuous-cctv-in-taxis-where-do-councils-stand>

be unlawful and unfair. Where the ICO has been made aware of councils implementing this approach, they have advised that the requirement for continuous recording is likely to be disproportionate to the problem it is trying to address.

Authorities may also take different approaches to the use of audio recording, which is generally considered by the ICO to be more invasive of privacy than cameras and will therefore require much greater justification.

These are issues about which there are different and, to some extent, philosophical views about what constitutes the appropriate balance between privacy and safeguarding. The ICO has looked closely at, and previously challenged, some licensing authorities on the CCTV policies they have implemented where it believes these go too far in terms of invasion of privacy or have not been adequately justified. This is discussed later on.

Therefore, although determining what is proportionate will need to be assessed by individual councils, looking at areas that have already mandated CCTV is helpful in indicating the balance that has been taken elsewhere. Councils will need to ensure when considering what is an appropriate and proportionate approach to CCTV that this is based on evidence of issues identified in the local area.

The next chapter provides more detail about data protection, privacy and information governance but the key point is that during the process of developing a proposal for mandatory CCTV systems, authorities will need to demonstrate that thought has been given to what the impacts on privacy might be and, where necessary, how these can be mitigated.

Likewise once a decision has been made to introduce mandatory CCTV, careful consideration needs to be given to the processes and procedures that are put in place to safeguard the data captured to ensure compliance with data protection legislation as well as the Protection of Freedoms Act 2012 and other relevant legislation.

The role of councillors

The close involvement of councillors and ensuring there is political buy-in throughout the policy development process is vital and councillors will need to be equipped with the evidence they need to determine whether or not mandatory CCTV is appropriate. Councillors' key role in providing political accountability for decisions is particularly important where proposals may attract some opposition. Several areas have had significant pushback from the taxi and PHV trade which includes members coming under pressure from these groups. In areas that have mandated CCTV, political support has been extremely important in delivering new policies.

Whilst the trade are a vital part of the local economy, it is important to remember that passengers should be at the centre of a licensing authority's taxi licensing policies and processes, something which was highlighted in Dame Louise Casey's review into Rotherham, which noted; 'The safety of the public should be the uppermost concern of any licensing and enforcement regime: when determining policy, setting standards and deciding how they will be enforced.'¹³

Ultimately it will be councillors who should make a decision around mandating CCTV in taxis/PHVs so officers will need to ensure they have the necessary information to make an informed decision. The SCC has produced a guide to the SC Code which is available on his website.¹⁴

¹³ See page 103

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/401125/46966_Report_of_Inspection_of_Rotherham_WEB.pdf

¹⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/498895/SCC_Councillors_Guide_-_February_2016.pdf

Developing an approach to CCTV

The data protection impact assessment (DPIA)

The General Data Protection Regulation (GDPR) states that a data protection impact assessment (DPIA) must be carried out prior to the roll-out of any intrusive surveillance system. CCTV in taxis and licensed vehicles is likely to be one such system and authorities will need to be able to demonstrate that they have conducted a DPIA to the ICO.¹⁵

The critical starting point is for licensing authorities to be very clear about the problem that needs to be addressed and be able to justify why they consider mandating CCTV in taxis/ PHVs to be an effective solution. Authorities may want to show why CCTV, rather than a potentially less intrusive solution, is required. This is a key component of principle one of the SC Code and the SCC's Buyer's Toolkit¹⁶ can help determine the justification for CCTV in taxis or whether there may be another solution to issues that have been identified.

Where councils have identified that CCTV may be a suitable option, they will need to consider what the appropriate approach to this is. This will necessarily start with developing a rationale for mandating CCTV, relevant to the local context and lead on to considerations about whether there is a need for both camera and audio recording, and when these may be required to operate.

Councils may feel that the inherent vulnerability relating to taxis/PHVs where sometimes vulnerable people are unaccompanied in a car with a stranger means that mandatory CCTV can be justified as a proactive and preventative measure. However, the ICO and SCC are unlikely to consider that the simple basis of high profile CSE cases in Rotherham and elsewhere as being a proportionate justification for implementing CCTV in other parts of the country.

The assessment of proportionality and the justification for this needs to be relevant to the local circumstances in which the policy will apply, so a local evidence base will need to be developed to support any proposal. This could include data from the licensing team around any specific cases where the presence of CCTV could have been beneficial, or any intelligence or incident data from police relating to taxis/PHVs.

Thought should therefore be given to what the particular vulnerabilities are in the local context, as authorities are used to doing in other areas of licensing, such as alcohol. For example, consideration could be given to the following:

- Is there significant use of taxis in the evening or late at night as part of the night-time economy? Both passengers and drivers could be increasingly vulnerable if passengers are under the influence of alcohol.
- Is there significant use of taxis by children and young people to/from school or activities? Again, concerns about vulnerability could be more prominent where lots of children/young people are relying on them for transportation.

¹⁵ More information about DPIAs can be found on ICOs website <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/accountability-and-governance/data-protection-impact-assessments>

¹⁶ www.gov.uk/government/publications/surveillance-camera-commissioners-buyerstookit

- Is there evidence of, statistics around crime involving PHVs/taxis, for example attacks on drivers?
- Is there evidence of complaints where the use of CCTV would have helped?

The DPIA also sets out measures that can be taken to mitigate any risks identified. It is important to note that where a DPIA identifies 'high risk' and there are not measures that can be taken to reduce this, authorities will need to consult the ICO before proceeding further. Ultimately this will help to inform the approach councils decide to take.

This is even more important if audio recording is being considered. As noted above, audio recording is regarded as more intrusive than video and therefore will need further justification. For example, an assessment might reveal that there are certain times when vulnerability is increased, such as in the early hours of the morning, and therefore there could be a strong argument for audio recording at these times, but not necessarily at others.

As the regulator, the ICO has successfully challenged councils on policies which they feel have not been justified, as in the Southampton case discussed in the next section. A robust assessment of necessity and risk through a DPIA and seeking legal advice could help avoid enforcement action by the ICO. In addition the SC Code is clear that mandating CCTV as a licensing condition will need a strong justification.

Consultation and engagement

Consultation and engagement are critical steps when considering deploying CCTV and even more critical when mandating its use and can help to shape the scope of the policy. The SCC's Passport to Compliance document includes sections on effective consultation in this area.

Consultation and engagement provides an opportunity to identify any concerns the public, the trade or other key stakeholders might have about proposals, these can then be addressed as proposals develop. Evidence of this process will be important to show how the licensing authority has had regard to balancing public protection and individual privacy, a necessary part of complying with the legislation.

Consultation and engagement with key stakeholders should be undertaken in line with your own council's consultation guidelines and it is an important step in the DPIA. A robust consultation process may help to avoid challenge further down the line. In Rotherham, the extensive consultation and engagement the council undertook was used as evidence when the council was legally challenged on their policy.

Key stakeholders are those who are most likely to be directly affected by the proposals, or groups representing their interests. These might include:

- Surveillance Camera Commissioner (Home Office) and Information Commissioner's Office
- councillors
- taxi/PHV trade bodies, operators and drivers
- residents
- specific taxi/PHV user groups
- suppliers of audio visual equipment
- local authority CCTV manager
- local police force.

Analysis of consultation responses will help to build an evidence base and identify the potential impact of mandating CCTV. Early engagement with the trade in particular is likely to be key to identifying what they see as the key issues and will give authorities the opportunity to shape a proposal which addresses any concerns. It is also important to have early discussions with the SCC and ICO.

Data protection, privacy and information governance

As discussed earlier it is important for councils to consider the potential impact of mandating CCTV on privacy and demonstrate through a DPIA that the approach to how/when CCTV systems are required to be used strikes a proportionate balance between privacy and safeguarding.

There are also steps that need to be taken to make sure that personal data which is being processed – which includes any visual or audio recording collected – is kept safe and secure. The General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA) regulates the use of ‘personal data’ and licensing authorities will need to take steps to ensure a policy is developed that complies with GDPR and DPA to avoid any potential challenge or enforcement action. In practice this means that authorities need to think about data privacy from the outset, it should not be an afterthought.

The regulatory framework

There is a range of legislation and codes of practice around surveillance and data protection that are relevant for the use of CCTV systems in taxis/PHVs, these are set out in Appendix three. The Surveillance Camera Commissioner (SCC) and the Information Commissioner (ICO) both are the key regulators on the use of CCTV in taxis/PHVs.

Guidance from the Surveillance Camera Commissioner (SCC)

A good starting point when considering introducing a mandatory policy is the Surveillance Camera Code of Practice¹⁷ (SC Code), which includes 12 guiding principles which should apply to all surveillance camera systems, including CCTV in taxis/PHVs. Local authorities have a statutory duty to ‘pay due regard’ to the SC Code under the Protection of Freedoms Act 2012.

In deciding to mandate CCTV systems and defining how they should be used, licensing authorities act as a ‘system operator’, and as such will need both to be aware of and adopt these principles.¹⁸ In particular, principle one states that CCTV surveillance must be for a specific purpose, in pursuit of a legitimate aim and necessary to meet an identified pressing need. Policies should also be kept under review to ensure that the use of CCTV remains justified and proportionate and continues to meet its stated purpose (principles two and 10 of the SC Code refer to this).

There are several tools issued by the SCC which support authorities both to comply and demonstrate compliance with the SC Code. This includes the Passport to Compliance, which acts as a guide through the various questions that can be asked to help evidence that due regard has been paid to the impacts a policy will have and that risks identified have been mitigated.

¹⁷ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/204775/Surveillance_Camera_Code_of_Practice_WEB.pdf

¹⁸ www.gov.uk/government/uploads/system/uploads/attachment_data/file/204775/Surveillance_Camera_Code_of_Practice_WEB.pdf

The SCC's self-assessment tools¹⁹ will also assist authorities to demonstrate publicly their compliance with the Code once CCTV is installed and operating. Councils can also apply for the Commissioner's third party certification mark, which demonstrates compliance with the SC Code.²⁰

Failure to pay due regard to PoFA and the SC Code risks undermining the evidential integrity of any recordings derived from CCTV systems, should these need to be used as evidence in criminal or civil proceedings.²¹

Guidance from the Information Commissioner

Whilst the SCC regulates surveillance cameras, the Information Commissioner's Office (ICO) regulates personal data and is responsible for enforcing compliance with privacy and data protection legislation. The ICO has separate guidance and codes, such as the CCTV Code of Practice²², to help organisations to comply with data protection legislation. The ICO's code does make reference to the SC Code and in complying with the SC Code authorities will have gone a long way to complying with the ICO's code already.

Given the ICO has challenged some of the authorities that have introduced mandatory policies it is recommended that authorities ensure they are fully compliant with both the DPA and PoFA. A summary of the key requirements is outlined in the following sections.

19 They can be accessed by the following link:
www.gov.uk/government/uploads/system/uploads/attachment_data/file/524525/Self_assessment_tool_v3_WEB_2016.pdf

20 www.gov.uk/government/publications/surveillance-camera-code-of-practice-third-party-certification-scheme

21 Local authorities should note section 33(3) and 33(4) of PoFA – that the SC Code is admissible in evidence in criminal and civil proceedings and where the SC Code hasn't been given due regard a court or tribunal should take this into account. The CPS are updating their disclosure manual (September 2018) – the Surveillance Camera Commissioner has blogged about this:
<https://videosurveillance.blog.gov.uk/2018/07/17/disclosure-the-importance-of-complying-with-the-surveillance-camera-code-of-practice/>

22 <https://ico.org.uk/media/for-organisations/documents/1542/cctv-code-of-practice.pdf>

The ICO has been clear that if CCTV systems are to be mandated as part of the conditions of a licence, there will need to be a strong justification, and the policy must be reviewed regularly, especially where audio recording is being used in addition to cameras.

The law is clear that the use of CCTV and audio in taxis must be proportionate to the risk presented, and councils will need to set out a clear justification of why they believe there is a need for visual and audio recording if applicable. The main rationale for using audio recording in taxis/PHVs is that this would pick up any inappropriate conversations between passengers and drivers, for example when they are carrying children. Authorities will need to assess whether audio recording is necessary based on local circumstances, and be able to justify this.

As discussed earlier, authorities will be required to undertake a DPIA to demonstrate that the impact of CCTV systems in taxis/PHVs on privacy has been carefully thought through and the statutory obligations placed upon the council to comply with GDPR have been appropriately addressed. The ICO provide detailed guidance on DPIAs on their website²³ and the SCC has also issued a number of helpful tools.²⁴ The process of completing these assessments will also support councils in evaluating what a proportionate use of CCTV systems in taxis/PHVs might look like in the local context.

The ICO also encourages cameras be capable of providing a privacy friendly solution, for example where audio is used, both drivers and passengers should have independent controls for activating it. Once activated, authorities will need to consider how long audio recording should continue, and measures will need to be put in place to make sure recording is discontinued before other passengers enter the vehicle.

On the basis that there is adequate evidence and justification for a given approach, the ICO has in some cases taken the view that it is

23 <https://ico.org.uk/media/for-organisations/documents/1595/pia-code-of-practice.pdf>

24 www.gov.uk/government/organisations/surveillance-camera-commissioner

acceptable for cameras to be on permanently whilst the vehicle is being used for business purposes, but must be capable of being switched off when the vehicle is used in a private capacity. The Commissioner's blog details their position that where a taxi is being used by a driver for their own private or domestic purpose, continuous recording is likely to be unlawful, unfair and excessive under data protection legislation and in breach of Article 8 of the Human Rights Act 1998.²⁵

The ICO's work on this is currently ongoing, particularly around the issue of continuous recording when the taxi is being used privately by the driver. To assist with this work, the ICO is engaging with a number of licensing authorities and further advice will be published by the ICO once this work has concluded.

When looking at what practical measures can be put in place to mitigate concerns around privacy, a robust download policy which clearly sets out the tightly-defined conditions/circumstances under which footage can be downloaded from the CCTV system will be key. The policy should also demonstrate that any data held is kept securely and for a defined period of time in line with duties under GDPR.

Following guidance from the SCC and ICO and engaging with both organisations will help licensing authorities to balance privacy and safeguarding in a justifiable and proportionate way.

Rotherham Council's taxi camera policy

Suitable equipment, capable of recording both audio and video, must be installed in all licensed vehicles. The system must meet or exceed the council's specification for taxi camera systems and must be operational at all times that the vehicle is being used as a licensed vehicle (ie for the carriage of fare paying passengers). The system does not need to be operational during other times (for example when being used for domestic purposes).

²⁵ <https://ico.org.uk/about-the-ico/news-and-events/blog-continuous-cctv-in-taxis-where-do-councils-stand>

Video recording must be active at all times. Audio recording must be active in any of the following circumstances:

- An unaccompanied child (ie under 18) or vulnerable adult is being carried in the vehicle.
- Where the driver and customer are involved in a dispute or the driver feels threatened by the behaviour of a passenger. Activation of audio recording must be triggered by the driver pressing a switch/button. Audio recording will continue until such time as the button/switch is pressed again. This switch will activate/deactivate audio recording independent of the passenger's audio activation button/switch.

There must also be the facility for the passenger to activate audio recording (independent of the driver) should the passenger wish to do so. Activation of audio recording must be triggered by the passenger pressing a switch/button. Audio recording will continue until such time as the button/switch is pressed again. This switch will activate/deactivate audio recording independent of the driver's audio activation button/switch.

Once activated (by either passenger or driver), the audio recording must continue for an uninterrupted period until it is deactivated. There must be an indicator located within the vehicle that is clearly visible to the passenger and clearly shows that audio recording is taking place.

At the end of the journey when the passenger leaves the vehicle, audio must be deactivated before another passenger enters the vehicle. If appropriate it must be reactivated should any of the situations above arise in relation to this new journey.

Rotherham's policy was developed in view of the SC Code and ICOs code of practice and in consultation with both regulators.

Source: Hackney Carriage & Private Hire Licensing Policy (p.25)

www.rotherham.gov.uk/downloads/file/2473/rotherham_abc_taxi_and_hackney_carriage_policy

Audio recording

The use of audio recording is considered more intrusive of privacy than cameras and requires strong justification. Where authorities opt to mandate audio recording, the justification for this will need to be clearly set out in the DPIA and the hours of operation of audio recording in particular should be considered carefully. The ICO's code includes a useful set of questions that must be thought through before audio recording is considered:

- Is there a pressing social need and do you have evidence that this need must be addressed?
- Have you considered other less privacy intrusive methods of addressing the need?
- Have the alternative options been reviewed and is there evidence to show that the only way to address the issue is through the use of audio recording?
- Have you got a clear specification for the audio system to ensure appropriate privacy and the necessary quality of recording?
- Is the public aware when audio recording is taking place, and how they can activate it?

In practical terms, the ICO has suggested that an audio recording system that allows recording to be switched on and off easily is a 'privacy friendly solution', as it does not require continuous recording and therefore mitigates the potential risk of recording excessive amounts of information. Again the local context will be important in determining what is appropriate.

Southampton Council's policy on the use of audio recording was challenged by the ICO for breaches of the Data Protection Act. The tribunal's view was that the requirement for continual 'blanket' audio recording in licensed vehicles was disproportionate, with the impact on the right of privacy outweighing any positive impact it may have on public safety or reducing crime. The tribunal's report can be read here:

www.southampton.gov.uk/moderngov/documents/s18170/Appendix%204.pdf

As a result of this Southampton amended their requirements around audio recording and adopted a more targeted scheme. Southampton's policy sets out circumstances when audio recording should be activated based on times of day, types of customer (for example, children or vulnerable adults) and the use of panic buttons.

Similarly, Rossendale council's policy determines specific times when audio recording is required to be activated. This includes whenever an unaccompanied child (ie under 18) or vulnerable adult is being carried in the vehicle, or if there is a dispute with a passenger, or a driver feels threatened by a passenger's behaviour.

Information governance

Alongside considerations about when and what information should be captured, a key part of managing obligations under GDPR is what happens to the information captured. Information governance is the term used to describe the policies, procedures and processes implemented to manage information that is collected, in this case those visual and audio recordings captured by CCTV systems.

Councils policies therefore will need to cover how data is kept secure when it is held within a system in the vehicle, at the point of download, and once information is downloaded.

Who has responsibility for the control of data captured on CCTV systems?

In terms of who has responsibility for information captured by CCTV systems in taxis/PHVs, GDPR defines a data controller as the individual or organisation which has ultimate responsibility for how personal data is collected and processed.

The ICOs position is that in most circumstances it is the council which is the data controller, not an individual taxi driver and this position is set out in the Commissioner's blog post.²⁶ This is due to the fact that in mandating CCTV the council will usually be responsible for the purpose of the processing and defining how and when systems should be used, and how data is processed.

Data controllers are required to register with the ICO. In most cases councils will already be registered with the ICO as data controllers, but registration will need to be updated to reflect new use of personal data where a taxi/PHV CCTV policy is adopted. Authorities should engage with data protection officers within your own organisations to discuss this.

Where a council chooses to use a third party service provider as remote storage for taxi/PHV CCTV data, or to process or manage the CCTV data, the third party will act as a 'data processor'. A formal written contract is required between the data controller and data processor covering security arrangements, retention/deletion instructions, access requests and termination arrangements. For more information, the ICO has a detailed guide around the roles of data processors and data controllers:

<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/accountability-and-governance/contracts>

As data controller the licensing authority is ultimately responsible for how images/recordings are stored and used, determining in what circumstances the images should be disclosed and for complying with all relevant data protection legislation. This can all be set out in a download policy, as set out in the next section.

Developing a data download policy

Licensing authorities will need to put in place clear policies around how information captured will be protected throughout its lifetime, ie from when it is recorded to when it is either downloaded or destroyed, this should be in the form of a download policy.

How CCTV systems capture and store information

When activated, cameras and audio equipment will record data which is automatically saved onto a memory recording system, like a memory card. The recording system and memory card (or other image memory recording system) are hardwired into the vehicle, and need to be securely stored within the vehicle, away from public access, and should be tamper proof.

Recordings should be stored on the internal memory for a defined period of time set out by the licensing authority, for example 31 days. After this period of time, unless there has been a request for download, the recordings should be over-written or destroyed.

The images contained in the recording device can only be downloaded by an authorised officer of the council or police officer. Where data is downloaded, there should be clear guidelines for how long this data is then be kept and how it is stored.

The ICO's code of practice sets out detailed information about how information should be stored, viewed and disclosed. This guidance is outlined briefly below, but councils are advised to read the code of practice in full.²⁷ Principles six, seven and nine of the SC Code also cover the storage and use of images captured from CCTV in taxis.

²⁶ <https://ico.org.uk/about-the-ico/news-and-events/blog-continuous-cctv-in-taxis-where-do-councils-stand>

²⁷ <https://ico.org.uk/media/for-organisations/documents/1542/cctv-code-of-practice.pdf>

For example, a download policy should set out clearly:

- that the licensing authority is responsible for the control of data captured by CCTV systems in taxis/PHVs
- how the information should be used and the circumstances in which it may be downloaded
- to whom it may be disclosed
- how long it should be kept for.

Recorded material should be stored in a way that maintains the integrity of the information so councils will need to ensure that the information is secure and where necessary, encrypted. Encryption can provide an effective means to prevent unauthorised access to images processed in a surveillance system. The encryption of data needs to be considered both when it is 'at rest' and 'in transit', ie when the data is being moved from the recording device in the vehicle to another server.

CCTV systems should be installed in a way that allows data to be secured in a locked 'data box' inside a vehicle as well as being encrypted. Council's may want to consider compiling a list of permitted installers in the area so they can be confident that installation requirements have been met and data is secure.

Attention must also be given to the data that is downloaded and extracted. Councils will need to make provision for this data which is likely to involve separate storage arrangements, different retention periods and potentially different access controls. For example, when footage is captured on a device, it will usually be over-written after a given time period. However where footage is downloaded, for example to investigate an incident, this will be stored separately on a server for as long as is needed for investigation and possible prosecution purposes. This will generally need to be kept for longer than footage which is not accessed.

Integrity of images

Principle 11 of the SC Code relates to the importance of processing data in a way that retains its integrity (ie its accuracy and consistency) and this will need to be addressed in relation to the images/audio recordings captured by CCTV in taxis. This is of particular importance should any of this data be used as evidence for a prosecution in the criminal justice system.

It is important that there are effective safeguards in place to ensure the integrity of recorded images and information that is stored, so that it can be used for its intended purpose. For example ensuring that time, date and location of recordings (known as meta data) is recorded reliably, and that compression of data does not reduce its quality.

It is also important to ensure that data is recorded and stored in a format that allows it to be shared with ease with appropriate law enforcement agencies when relevant. If this cannot be readily achieved it may undermine the purpose of having CCTV in the first place. Data therefore needs to be in a format that is easily shared, that can be readily exported and then stored and analysed without any loss of its integrity. In particular:

- a system user should be able to export images and information from a surveillance camera system when requested by a law enforcement agency
- the export of images and information should be possible without interrupting the operation of the system
- the exported images and information should be in a format which is interoperable and can be readily accessed and replayed by a law enforcement agency
- the exported images and information must preserve the quality.

Data retention

A download policy should set out how long data will be retained by the licensing team. This should cover the time that data needs to be kept for on the recording device within the vehicle, as well as how long the licensing authority will retain data in the event that it is downloaded. It is worth thinking through what the appropriate retention period might be for different scenarios. For example, downloading data as part of routine enforcement activity for the purpose of checking that the system is operating correctly will necessitate a shorter retention period than downloads relating to a serious incident.

Authorities will need to ensure that their information governance policies are updated to make reference to the CCTV data retention period and the rationale for it. Principle six of the SC Code covers the retention of images captured from CCTV in taxis setting out that images should not be retained for any longer than is absolutely necessary.

Dealing with requests for downloads

The majority of the time, data will be deleted or over written without the need to download it. However, there will be certain circumstances when data will need to be downloaded from the system, for example if an incident occurs or during enforcement inspections of vehicles.

As set out on page 17, a download policy should be developed to set out the prescribed circumstances in which data will be downloaded. The policy will also need to set out where, and by whom downloads can be undertaken. Most policies will specify that data downloads should be conducted in the presence of at least two relevant people, one of those being a member of council staff who has been trained in the download of data from the system, and in the requirements of the policy.

Downloads might ordinarily take place at a council facility, but may on occasion be at another location. This should be described in the download policy.

Procedures should be put in place to check that any request for data is in an appropriate format detailing the powers that allow the release of the data and providing all the information required to ensure the correct footage can be identified. The request for download must state the approximate time of the event/occurrence and only the timescale relevant to the specific incident will be downloaded, decrypted and thereafter stored.

It is also recommended that a dedicated computer should be used to facilitate downloads from data boxes, and where downloaded footage can be securely kept until it can be transferred onto a dedicated secure storage system held by the licensing team. A working copy can be produced and given to the requesting authority/subject or retained by the investigating officer. The ICO has published an information sharing code of practice and recommends that the data flows for this process be documented in the DPIA: https://ico.org.uk/media/for-organisations/documents/1068/data_sharing_code_of_practice.pdf

Whilst the amount of download requests will vary from authority to authority, the expectation is that the presence of CCTV should reduce the number of incidents in taxis/PHVs and that therefore requests for downloads should be a relatively infrequent occurrence.

Council enforcement officers will need to be able to use the system to access and extract information where disclosure is appropriate so consideration will need to be given to what additional training might be necessary.

Extract from Southampton Council's download policy

The policy outlines that data will only ever be downloaded on four occasions:

- where a crime report has been made involving the specific vehicle and the police have formally requested that data
- when a substantive complaint has been made to the licensing authority regarding a specific vehicle/driver and that complaint is evidenced in writing (and cannot be resolved in any other way)
- where a data request is received from an applicant, eg police or social services, that has a legitimate requirement to have access to the data requested to assist them in an investigation that involves a licensed vehicle or driver
- to fulfil a Subject Access Request that is compliant with the Data Protection Act.

Subject access requests

GDPR gives individuals certain rights over their personal data, including the right to access personal data, to know how their data is being used and to object to the way their data is used. Requests from passengers for a copy of footage/audio recordings is referred to as a Subject Access Request (SAR). The SC Code (principle four) sets out that there must be clear responsibility and accountability for all surveillance camera system activities including images and information collected, held and used.

Information for individuals about how they can request access to any recordings (personal data) captured by CCTV systems in taxis/PHVs will need to be provided, and a process for responding to requests set out.

Councils will need to put in place provisions for dealing with SARs and the circumstances in which these requests will be accepted or refused. Whether accepted or refused, SARs require a response within one month of receipt.

Third party requests

A third party request essentially captures any other requests, which can include members of the public making a complaint, and the police. There is a slightly different process for dealing with requests for downloads from third parties. Where information is requested by the police, for example if a passenger has made an accusation about a taxi/PHV driver, or a driver is making allegations of threatening behaviour against passengers this will need to be dealt with as a 'third party' request.

Once council officers are satisfied that the request is legitimate arrangements should be made with the owner of the licensed vehicle for the vehicle to attend the designated premises where a download can take place, for example a council facility. If it is not practical then a member of the licensing team should attend the location of the vehicle or data box to facilitate the download. It is good practice for any download to be carried out in the presence of at least two relevant people, which could be two members of the licensing team.

The council would need to consider the reasons a third party is requesting the information and then identify if they have a lawful basis to disclose it. However, the DPA 2018, similarly to the DPA 1998, provides an exemption that allows the disclosure of information for the prevention or detection of crime or the apprehension or prosecution of offenders (Schedule 2 Part 1 Section 2).

Privacy notices

Under GDPR, individuals have the right to be informed about the collection and use of their personal data. This is a key transparency requirement under GDPR.

Privacy notices are used to inform the public about the collection and use of their personal data. In terms of CCTV recording in taxis/PHVs, privacy notices will need to set out why camera/audio recording is being used, how long data will be kept for, who will be able to access it and how to make a complaint.

Privacy notices will need to be prescribed by the council. Under GDPR (article 13 and 14) certain information is required to be included in a privacy notice. These are the:

- name and contact details of the licensing authority
- contact details of the authority's data protection officer
- purpose of the processing
- lawful basis for the processing
- recipients or categories of recipients of the personal data
- retention periods for the personal data
- rights available to individuals in respect of the processing
- right to lodge a complaint with a supervisory authority.

More information is available on the ICO's website²⁸ and principle three of the SC Code also refers to the need for transparency in the use of surveillance cameras.

All of the above considerations are also addressed within principle nine of the SC Code which sets out the SCC's expectation that surveillance camera system images and information should be subject to appropriate security measures to safeguard against unauthorised access and use.

²⁸ <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/right-to-be-informed>

Implementation and enforcement

Having considered safeguarding and privacy issues, and consulted on proposals to implement a mandatory CCTV policy, licensing authorities will need to develop clear policies outlining the agreed approach to CCTV systems. These should set out expectations for how these will be used, and how non-compliance will be tackled.

What should be included in a licensing policy?

Councils will need to update their existing taxi/PHV licensing policy to include new provisions for CCTV systems. The LGA encourages all licensing authorities to have an overarching taxi/PHV policy, but where they do not, a standalone policy in relation to CCTV should be developed.

The key things to cover in a policy are:

- that a CCTV system must be installed in all licensed vehicles
- that CCTV systems must meet the council's prescribed specification
- when and how CCTV systems are to be used
- reference to how the system can be activated by drivers/passengers and that there must be an indication that audio recording is in use
- information about fair processing which should be included on notices in vehicles with further information available on the council's website
- implementation timescales for new provisions
- that the system complies with relevant legislation.

Details of the system specification and implementation schedule can be provided as supplementary documents. Licensing authorities will need to ensure corporate information governance policies are also updated to include the use of CCTV data in taxis/PHVs.

Conditions of authority's taxi/PHV driver and vehicle licences will also need to be updated to reflect new requirements for CCTV.

Camera specification and installation

Principle eight of the SC Code of practice is clear that councils, as surveillance camera operators, should consider any approved operational, technical and competency standards relevant to a system and its purpose and work to meet and maintain those standards – there are a list of recommended standards on the SCC website.²⁹ It is up to individual councils to decide the extent to which they prescribe exactly what a CCTV system will need to do, but it is helpful to have a minimum standard which cameras/audio need to meet so drivers are clear about the requirements that systems need to meet. This will act as a guide for drivers when they are purchasing cameras.

Again, the SCC's Buyers' Toolkit and the Passport to Compliance documents will also provide a good guide when considering specifications.

²⁹ www.gov.uk/guidance/recommended-standards-for-the-cctv-industry

Systems should also comply with relevant legislation and standards. Councils should satisfy themselves that the supplier is able to provide the relevant technical files for the entire system, including any ancillary equipment, and that the product is either CE or E marked if type approved. Test certificates provided by the manufacturer, particularly if outside of the EU, may not be sufficient for this purpose.

Clearly the cost of CCTV systems will depend on the specification a council has agreed and consideration should be given to how requirements can be balanced against the cost to drivers. In Rotherham, the taxi trade argued that the cost of systems that met the specification were too high and that this should be picked up by the council. However, the council considered that the systems represented a reasonable and legitimate business cost and noted the ability for the driver to offset costs. Elsewhere, some local authorities have identified funds to support drivers with the cost of installing systems.

The specification for CCTV systems will need to be set out either within a policy or as a separate annex. It is also helpful to set out a list of systems which meet the requirements of the policy and where these can be purchased. This may require some initial scoping work to ensure cameras that meet requirements are readily available and suppliers are able to meet the demand of the fleet size.

Installation of systems should be done by an installer approved by the local authority so that cameras/audio equipment are safe and secure. Including a list of approved local installers is one way to ensure this happens.

Communicating changes to drivers and members of the public

Using an effective communication strategy to raise awareness of the introduction of mandatory CCTV is important and there should be a proactive effort to make sure both drivers and operators, as well as the public are clear on exactly what the changes are, and the implications of these. Whilst drivers should already be aware of plans following earlier consultation, it is important that rules, policies and procedures are put in place ahead of implementation, and that all licensed drivers are informed, for example by letter, to ensure they fully understand the requirements that they will need to comply with. This should also give them an opportunity to prepare and budget for new requirements. Training could be offered to drivers around their responsibilities and how to deal with questions from passengers.

The public should also be informed about new proposals for example via press releases and other routine communications. To comply with data protection legislation and PoFA, all vehicles with CCTV systems fitted will need clear signage to let the public know that they are being recorded, and how they can find out more information, or make a request for a data download. The forms of this signage should be prescribed in your download policy. Detailed information should also be published on the council's website, and reviewed at least annually.

Implementation schedule

Developing and publishing an implementation plan is important and shows that new requirements are being introduced fairly and in a way that minimises the impact of potentially costly changes on the licensed trade.

Once a policy has been approved, it may be fair to say that requirements will have immediate effect in relation to new applications. Thought should be given to what a reasonable amount of time to install cameras in existing licenced vehicles would be and whether any exemptions might be appropriate, for example if vehicles are in their last year of operation due to age limit requirements.

One possible approach could be that vehicles with existing licenses are required to be fitted with CCTV within a defined amount of time, eg 18 months from the policy go live date or alternatively, there could be a requirement for vehicles to have CCTV installed at point of renewal following the go live date. Enforcement officers can then check that systems are installed correctly and working properly as part of the renewal process.

Adopting this type of staged approach will help to reduce the impact on CCTV system suppliers and installers, and also ensure that licence holders have sufficient time to source, purchase and install a system prior to the requirement taking effect.

Enforcement

The effectiveness of CCTV as a measure to improve safeguarding is reliant on enforcement activity to identify those who are not complying with the agreed policy, for example by not switching the systems on when they should be. If there is evidence that cameras are not being used in the agreed manner, steps will need to be taken to address this, in line with those set out in the council's policy.

The functionality of CCTV systems should be checked as part of routine enforcement activity although no one but the relevant council officer or where applicable authorised staff from the data processor should be able to access this data. In a similar way to how footage from CCTV systems in licensed premises is checked, a designated officer will need to check that the camera and audio functions are being used in line with local requirements. Officers will therefore need to be trained in functionality of the systems which meet the specification. It is worth considering what training needs will be required at the outset so that resources can be allocated to make sure officers have relevant training. Principle 11 of the SC Code covers this point.

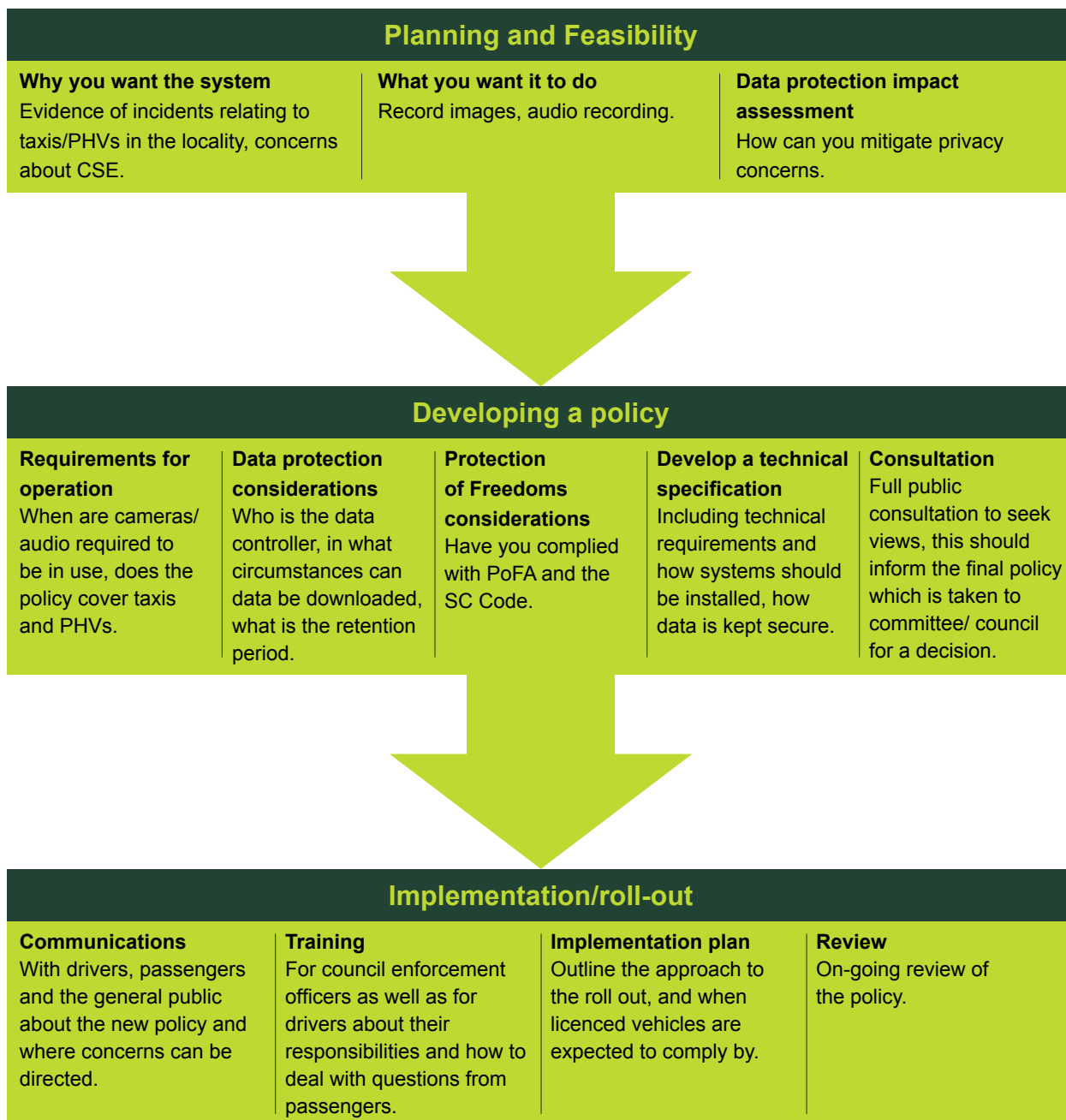
Reviewing CCTV policies

Principles two and 10 of the SC Code set out that there should be regular reviews of CCTV systems to ensure that their use remains justified and proportionate in meeting its stated purpose.

By regularly checking CCTV systems you can make sure the cameras are working correctly, that footage can be downloaded correctly and so on. It is best practice to carry out reviews at least annually and this can be done for every camera or the entire system. The Surveillance Camera Commissioner's self-assessment tool is useful when carrying out a review and it is best practice for the outcome of the review to be published.

Appendices

Appendix 1: Flow chart



Appendix 2: Glossary

Surveillance camera systems

The statutory definition for a surveillance camera systems is set out in Section 29(6) of the 2012 Act³⁰ and is taken to include: (a) closed circuit television (CCTV) or automatic number plate recognition (ANPR) systems; (b) any other systems for recording or viewing visual images for surveillance purposes; (c) any systems for storing, receiving, transmitting, processing or checking the images or information obtained by (a) or (b); (d) any other systems associated with, or otherwise connected with (a), (b) or (c).

A system operator is the person or persons that take a decision to deploy a surveillance camera system, and/or are responsible for defining its purpose, and/or are responsible for the control of the use or processing of images or other information obtained by virtue of such system.

A system user is a person or persons who may be employed or contracted by the system operator who have access to live or recorded images or other information obtained by virtue of such system.

Date protection impact assessments (DPIA)

A data protection impact assessment (DPIA) is a process which helps to identify and minimise the data protection risks of a project. Under GDPR, a DPIA is required to be undertaken for 'high risk' processing which includes mandatory CCTV in taxis.

The DPIA will need to outline the purpose of the processing, assess the necessity and proportionality of a specified approach, as well as assess the potential risks to individuals and how these could be mitigated.

Data controller

A data controller determines the purposes and means of processing personal data.

Data processor

A processor is responsible for processing personal data on behalf of a controller

Data protection officer (DPOs)

DPOs assist you to monitor internal compliance, inform and advise on your data protection obligations, provide advice regarding data protection impact assessments (DPIAs) and act as a contact point for data subjects and the supervisory authority. All public authorities are required to have one.

³⁰ The Protection of Freedoms Act 2012 (PoFA)
www.legislation.gov.uk/ukpga/2012/9/part/2

Appendix 3: Links to useful resources and guidance

Information Commissioner's Office

Guidance on Data Protection Impact Assessments

<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/accountability-and-governance/data-protection-impact-assessments/>

Blog: 'Continuous CCTV in taxis – where do councils stand?'

<https://ico.org.uk/about-the-ico/news-and-events/blog-continuous-cctv-in-taxis-where-do-councils-stand>

Data protection code of practice for surveillance cameras and personal information

<https://ico.org.uk/media/for-organisations/documents/1542/cctv-code-of-practice.pdf>

Guidance on the role of data controllers and processors

<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/accountability-and-governance/contracts/>

Individual rights

<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/>

Surveillance Camera Commissioner

Surveillance Camera Code of Practice

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/204775/Surveillance_Camera_Code_of_Practice_WEB.pdf

Passport to compliance: these documents will guide authorities through the relevant principles within the Surveillance Camera Code of Practice. It sets out the necessary stages when planning, implementing and operating a surveillance camera system to ensure it complies with the code.

www.gov.uk/government/publications/passport-to-compliance

Self-assessment tool

www.gov.uk/government/uploads/system/uploads/attachment_data/file/524525/Self_assessment_tool_v3_WEB_2016.pdf

Third party certification

www.gov.uk/government/publications/surveillance-camera-code-of-practice-third-party-certification-scheme

Buyers' Toolkit

An easy-to-follow guide for non-experts who are thinking about buying a surveillance camera system and want to ensure they buy an effective system that does what they want it to do.

www.gov.uk/government/publications/surveillance-camera-commissioners-buyers-toolkit

Blog 'CCTV in Taxis – are you talking to me?'

<https://videosurveillance.blog.gov.uk/2018/08/28/cctv-in-taxis-are-you-talking-to-me/>

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Department
for Transport

Statutory Taxi & Private Hire Vehicle Standards

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1. Introduction

- 1.1 There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated and in some cases perpetrated by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers. Links between the trade and child sexual abuse and exploitation have been established in many areas and other investigations continue. Data on reported sexual assaults by taxi and private hire vehicle drivers evidence the risk to passengers; data from [Greater Manchester](#) and [Merseyside](#) suggest that, if similar offence patterns are applied across England, 623 sexual assaults per year are reported. These figures do not however account for the under reporting of crime which is estimated to be as high as 83 percent in the [Crime Survey for England and Wales](#).
- 1.2 The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this document, a child is defined as anyone who has not yet reached their 18th birthday; and the term “vulnerable individual” has the same meaning as the definition of a ‘vulnerable adult’ for the purpose of section 42 of the [Care Act 2014](#), which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):
- (a) has needs for care and support (whether or not the authority is meeting any of those needs),
 - (b) is experiencing, or is at risk of, abuse or neglect, and
 - (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- 1.3 Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.**
- 1.4 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Taxi and Private Hire Vehicle Standards issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxi and private hire vehicle policy was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate on these issues, the standards in this document would, cease to apply.

- 1.5 All local authorities and district councils that provide children's and other types of services, including licensing authorities, have a statutory duty to make arrangements to ensure that their functions and any services that they contract out to others are discharged having regard to the need to safeguard and promote the welfare of children. This means that licensing authorities should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children. This includes clear whistleblowing procedures, safe recruitment practices and clear policies for dealing with allegations against people who work with children, as set out in the [Working Together to Safeguard Children](#) statutory guidance.
- 1.6 The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department's Best Practice Guidance. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).
- 1.7 The standards in this document replace relevant sections of the Best Practice Guidance issued by the Department in 2010, where there is a conflict between the Statutory Taxi and Private Hire Vehicle Standards and the Best Practice Guidance the Department issue on taxi and private hire vehicle licensing, the standards in this document take precedence.

Terminology

Taxis are referred to in legislation, regulation and common language as 'hackney carriages', 'black cabs' and 'cabs'. The term '**taxi**' is used throughout this document and refers to all such vehicles. Taxis can be hired immediately by hailing on the street or at a rank.

Private hire vehicles include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All private hire vehicle journeys must be pre-booked via a licensed private hire vehicle operator and are subject to a 'triple licensing lock' i.e. the operator fulfilling the booking must use vehicles and drivers licensed by the same authority as that which granted its licence. The term 'private hire vehicle' is used throughout this document to refer to all such vehicles.

2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards

- 2.1 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in the Statutory Taxi and Private Hire Vehicle Standards and recommend that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.
- 2.2 The Government set out in the [Modern Crime Prevention Strategy](#) the evidence that where Government, law enforcement, businesses and the public work together on prevention, this can deliver significant and sustained cuts in certain crimes. That is good news for victims and communities and it makes clear economic sense too. Educating the public on the risks of using unlicensed drivers and vehicles, how to identify the licensed trade and appropriate measure to take when using these services will protect help all passengers, more information is annexed to this document (Annex - Staying safe: guidance for passengers).
- 2.3 The Strategy committed to protect children and young people from the risk of child sexual abuse and exploitation (CSAE), by working with local authorities to introduce rigorous taxi and private hire vehicle licensing regimes. Both the [Jay](#) and [Casey](#) reports on CSAE highlighted examples of taxi/private hire vehicle drivers being directly linked to children that were abused, including instances when children were picked up from schools, children's homes or from family homes and abused, or sexually exploited.
- 2.4 The Casey Report made clear that weak and ineffective arrangements for taxi and private hire vehicle licensing had left the children and public at risk. The Department for Transport has worked with the Home Office, Local Government Association (LGA), personal safety charities, trade unions and trade bodies,

holding workshops, forums, and sharing evidence and good practice with local authorities to assist in the setting of the standards.

- 2.5 This document is published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).
- 2.6 The document sets out a framework of policies that, under section 177(4), licensing authorities “**must have regard**” to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.7 “Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated.** It is not a question of box ticking; the standards must be considered rigorously and with an open mind.
- 2.8 Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence. **In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.** The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).
- 2.9 The Statutory Taxi and Private Hire Vehicle Standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.

3. Administering the Licensing Regime

Licensing policies

- 3.1 The Department recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 3.2 When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the [report by Dame Louise Casey CB](#) of February 2015 on safeguarding failings.

“It will be evident from this report that in many cases the activities of perpetrators take place in spheres which are regulated by the Council – taxis have been the focus of particular concern. Persistent and rigorous enforcement of the regulatory functions available to the council, including the placing of conditions on private hire taxi operator licences where appropriate, would send a strong signal that the trade is being monitored and would curtail the activities of opportunistic perpetrators whereby taxi drivers have solicited children to provide sex in return for cigarettes, alcohol or a fare free ride.”

- 3.3 The long-term devastation caused by CSAE was summarised in the same report:

“Victims suffer from suicidal feelings and often self-harm. Many become pregnant. Some have to manage the emotional consequences of miscarriages and abortions while others have children that they are unable to parent appropriately. The abuse and violence continues to affect victims into adulthood. Many enter violent and abusive relationships. Many suffer poor mental health and addiction.”

- 3.4 Rotherham Metropolitan Borough Council ('Rotherham Council') provides an example of how the systematic review of policies and procedures and the implementation of a plan to drive improvements in practice can result in a well-functioning taxi and private hire vehicle sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere is well known, but it is the transparency and resolution that Rotherham Council has demonstrated and the high standards they now require that are rebuilding public confidence.
- 3.5 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. **Licensing authorities should review their licensing policies every five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually.**

Duration of licences

- 3.6 A previous argument against issuing licences for more than a year was that a criminal offence might be committed, and not notified, during this period; this can of course also be the case during the duration of a shorter licence. This risk can be mitigated for drivers by authorities to undertaking regular interim checks. To help authorities monitor licensees' suitability, licensing authorities should engage with their police force to ensure that when the police believe a licensee presents a risk to the travelling public they use their Common Law Police Disclosure powers (see paragraphs 4.9 - 4.11) to advise them.
- 3.7 The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and private hire vehicle drivers and five years for private hire vehicle operators. Any shorter duration licence should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, if a licensee has requested one or where required (e.g. when the licence holder's leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand; they should not be issued on a 'probationary' basis.

Whistleblowing

- 3.8 It is in the application of licensing authority's policies (and the training and raising of awareness among those applying them) that protection will be provided. Where there are concerns that policies are not being applied correctly, it is vital that these can be raised, investigated and remedial action taken if required. **Licensing authorities should have effective internal procedures in place for staff to raise concerns and for any concerns to be dealt with openly and fairly.**

A report into the licensing of drivers by South Ribble Borough Council highlights the implications of not applying the agreed policies. In early August 2015, concerns were raised regarding decisions to renew the licences of drivers where there were potential incidents of child sexual exploitation. An internal review concluded that there had been failings in local investigatory procedures which might have affected the ability of the General Licensing Committee to make proper decisions, and information sharing with the police and data recording was not satisfactory.

- 3.9 The external investigation in South Ribble concluded “that there had been a lack of awareness and priority given to safeguarding and the safety of taxi [and private hire vehicle] passengers in the manner in which licensing issues were addressed”. We are pleased to note that the [report](#) concludes, “The Council have been active at every stage in responding to issues and concerns identified. It has taken steps to address operational issues in the licensing function and has engaged fully with other agencies in so doing. In the light of the above, it is not necessary to make any further recommendations.”
- 3.10 It is hoped that all licensing authorities will have learnt from these mistakes but to prevent a repeat, **local authorities should ensure they have an effective ‘whistleblowing’ policy and that all staff are aware of it.** If a worker is aware of, and has access to, effective internal procedures for raising concerns then ‘whistleblowing’ is unlikely to be needed.
- 3.11 The Public Interest Disclosure Act 1998 (PIDA), commonly referred to as whistleblowing legislation, provides protection for those that have a reasonable belief of serious wrongdoing, including failure to comply with professional standards, council policies or codes of practice/conduct. The PIDA is part of employment law. In the normal course of events, if a worker reveals information that his employer does not want revealed it may be a disciplinary offence. If someone leaked their employer’s confidential information to the press, they might expect to be dismissed for that. The PIDA enables workers who ‘blow the whistle’ about wrongdoing to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so. It is a qualified protection and certain conditions would have to be met for the worker to be protected. More information is available online for [employees](#) and [employers](#):

Consultation at the local level

- 3.12 Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades’ customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest (e.g. the Campaign for Better Transport and other transport providers), women’s groups, local traders, and the local multi-agency safeguarding arrangements. It may also be helpful to consult with night-time economy groups (such as Pubwatch) if the trade is an important element of dispersal from the local night-time economy’s activities.
- 3.13 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas; and **licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change.** Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; this should be adopted by all authorities.

Changing licensing policy and requirements

- 3.14 **Any changes in licensing requirements should be followed by a review of the licences already issued.** If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle. The same pragmatic approach should be taken to driver licence changes - if requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.
- 3.15 Where a more subjective change has been introduced, for example an amended policy on previous convictions, a licensing authority must consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities should consider doing so. Licensing authorities should record the reasons for any deviation from the policies in place.

4. Gathering and Sharing Information

- 4.1 Licensing authorities must consider as full a range of information available to them when making a decision whether to grant a licence and to meet their ongoing obligation to ensure a licensee remains suitable to hold a licence.

The Disclosure and Barring Service

- 4.2 The Disclosure and Barring Service (DBS) provides access to criminal record information through its disclosure service for England and Wales. The DBS also maintains the lists of individuals barred from working in regulated activity with children or adults. The DBS makes independent barring decisions about people who have harmed, or where they are considered to pose a risk of harm to a child or vulnerable person within the workplace. The DBS enables organisations in the public, private and voluntary sectors to make safer employment decisions by identifying candidates who may be unsuitable for certain work, especially that which involves vulnerable groups including children.
- 4.3 Enhanced certificates with a check of the barred lists include details of spent and unspent convictions recorded on the Police National Computer (PNC), any additional information which a chief officer of police believes to be relevant and ought to be disclosed, as well as indicating whether the individual is barred from working in regulated activity with children or adults. Spent convictions and cautions are disclosed on standard and enhanced certificates according to rules set out in legislation. Convictions which resulted in a custodial sentence, and convictions or cautions for a specified serious offence such as those involving child sexual abuse will always be disclosed on a standard or enhanced certificate. Full details of the disclosure rules, and those offences which will always be disclosed, are available from the [DBS](#). As well as convictions and cautions, an enhanced certificate may include additional information which a chief police officer reasonably believes is relevant and ought to be disclosed. Chief police officers must have regard to the [statutory guidance](#) issued by the Home Office when considering disclosure. A summary of the information provided at each level of DBS checks is annexed to this document (Annex – Disclosure and Barring Service information).
- 4.4 It should be noted that licensing authorities must not circumvent the DBS process and seek to obtain details of previous criminal convictions and other information that may not otherwise be disclosed on a DBS certificate. Whilst data protection legislation (not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)) gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, it is a criminal offence to require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This could potentially lead to the authority receiving information to which it is not entitled. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.

The Disclosure and Barring Service Update Service

- 4.5 Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.
- 4.6 The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the type of information; for criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months.
- 4.7 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check Facility (MSCF) that can be accessed via a web service. The MSCF enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the MSCF is available from the [DBS](#).
- 4.8 Should the MSCF advise that new information is available the DBS certificate should no longer be relied upon and a new DBS certificate requested.

Common Law Police Disclosure

- 4.9 The DBS is not the only source of information that should be considered as part of a fit and proper assessment for the licensing of taxi and private hire vehicle drivers. Common Law Police Disclosure ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger.
- 4.10 Common Law Police Disclosure replaced the Notifiable Occupations Scheme (NOS) in March 2015 and focuses on providing timely and relevant information which might indicate a public protection risk. Information is passed on at arrest or charge, rather than on conviction which may be some time after, allowing any measures to mitigate risk to be put in place immediately.
- 4.11 This procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. **Licensing authorities should maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.**

Licensee self-reporting

- 4.12 Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so. This must not

however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities. Should an authority place an obligation on licensees to notify under these circumstances, authorities should also ensure appropriate procedures are in place to enable them to act in a suitable timeframe if and when needed.

- 4.13 Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

Referrals to the Disclosure and Barring Service and the Police

- 4.14 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS. **A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS.** The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the [DBS](#).

- 4.15 The Department recommends that licensing authorities should make a referral to the DBS when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the '[harm test](#)'; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;

if the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

- 4.16 These referrals may result in the person being added to a barred list and enable other licensing authorities to consider this should further applications to other authorities be made. Further information on referrals to DBS is [available](#).

Working with the Police

- 4.17 The police are an invaluable source of intelligence when assessing whether a licensing applicant is a 'fit and proper' person. It is vital that licensing authorities have a partnership with the police service to ensure that appropriate information is shared as quickly as possible. As part of building an effective working relationship between the licensing authority and the police, **action taken by the licensing authority as a result of information received should be fed-back to the police.** Increasing the awareness among police forces of the value licensing authorities place on the information received, particularly on non-conviction intelligence, will assist furthering these relationships and reinforce the benefits of greater sharing of information.
- 4.18 This relationship can be mutually beneficial, assisting the police to prevent crime. The police can gain valuable intelligence from drivers and operators, for example, the identification of establishments that are selling alcohol to minors or drunks, or the frequent transportation of substance abusers to premises.
- 4.19 To aid further the quality of the information available to all parties that have a safeguarding duty, a revocation or refusal on public safety grounds should also be advised to the police.

Sharing licensing information with other licensing authorities

- 4.20 As has been stated elsewhere in this document, obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. An obvious source of relevant information is any previous licensing history. **Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority.** Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.
- 4.21 The LGA's Councillors' [Handbook on taxi and private hire vehicle licensing](#) advises that those responsible for licensing should "*communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistency and robustness in decision-making. By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities.*". While this approach may aid consistency and robustness in decision-making within regions, it has obvious inherent limitations as it is unlikely such protocols could be established between all licensing authorities. The LGA commissioned the National Anti-Fraud Network to develop a national register of taxi and private hire vehicle driver licence refusals and revocations (the register is known as 'NR3'). **Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.**

- 4.22 For these processes to be beneficial, all licensing authorities must keep a complete and accurate record as to the reasons for refusal, suspension or revocation of a licence in order that this might be shared if requested and appropriate to do so.
- 4.23 Data protection legislation provides exemption from the rights of data subjects for the processing of personal data in connection with regulatory activities. This includes taxi and private hire vehicle licensing. The exemption applies only to information processed for the core regulatory activities of appropriate organisations; it may not be used in a blanket manner. The exemption applies only to the extent that the application of the rights of data subjects to the information in question would be likely to prejudice the proper discharge of the regulatory functions. The Information Commissioner's Office has published [guidance](#) to assist organisations to fully understand their obligations and suggest good practice.
- 4.24 If notification under paragraph 4.20 or 4.21 of a refused or revoked licence is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. In those circumstances, the relevant licensing authority must consider whether it should disclose any information in relation to the previous decision, consistent with its obligations under data protection legislation. If information is disclosed, it can then be taken into account in determining the applicant's fitness to be licensed. The relevance of the reason for refusing/revoking a licence must be considered. For example, if any individual was refused a licence for failing a local knowledge test, it does not have any safeguarding implications. Conversely, a revocation or refusal connected to indecency would. Licensing authorities should not simply replicate a previous decision, authorities must consider each application on its own merits and with regard to its own policies.
- 4.25 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 4.20, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should review whether the licence holder remains 'fit and proper'.

Multi-agency Safeguarding Hub (MASH)

- 4.26 Multi-Agency Safeguarding Hubs are a way to improve the safeguarding response for children and vulnerable adults through better information sharing and high quality and timely safeguarding responses. MASHs (or similar models) should operate on three common principles: information sharing, joint decision making and coordinated intervention.
- 4.27 The Home Office report on [Multi Agency Working and Information Sharing](#) recommended that effective multi-agency working still needs to become more widespread. The Children's Commissioner's 2013 [Inquiry into Child Sexual Exploitation in Gangs and Groups](#) found that both police and local authorities still identified the inability to share information as a key barrier to safeguarding children from sexual abuse and exploitation.

4.28 All licensing authorities should operate or establish a means to facilitate the objectives of a MASH (i.e. the sharing of necessary and relevant information between stakeholders). As has been emphasised throughout this document, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and private hire vehicles is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

Complaints against licensees

4.29 Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. **All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.** Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the 'balance of probabilities' assessment that licensing authorities must take.

4.30 Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder must be determined by the licensing authority, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.

4.31 To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all licensed vehicles. This is likely to result in additional work for the licensing authority but has the advantage of ensuring consistency in the handling of complaints. Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.

4.32 Importantly, this approach will assist in the directing of complaints and information regarding the behaviour of drivers who may be carrying a passenger outside of the area in which the driver is licensed to the authority that issued the licence. In order for this to be effective licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.

4.33 In terms of investigating complaints CCTV footage of an incident can provide an invaluable insight, providing an 'independent witness' to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 7.7 - 7.12.

Overseas convictions

- 4.34 The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK. It should however be noted that some countries will not provide an 'Certificate of Good Character' unless the individual has been resident for six months or more
- 4.35 Licensing authorities should seek or require applicants to provide where possible criminal records information or a 'Certificate of Good Character' from overseas in this circumstance to properly assess risk and support the decision-making process (. It is the character of the applicant as an adult that is of particular interest, therefore an extended period outside the UK before the age of 18 may be less relevant. As with all licensing decisions, each case must be considered on its own merits. For information on applying for overseas criminal record information or 'Certificates of Good Character' please see the Home Office [guidance](#).
- 4.36 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in the annex to this document (Annex – Assessment of previous convictions), licensing authorities should advise the applicant to seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

5. Decision Making

Administration of the licensing framework

- 5.1 A policy is only effective if it is administered properly. The taxi and private hire vehicle licensing functions of local councils are non-executive functions i.e. they are functions of the council rather than the executive (such as the Cabinet). The functions include the determination of licence applications, reviews and renewals, along with the attachment of conditions when considered appropriate. The function may be delegated to a committee, a sub-committee or an officer – which should be set out within a clear scheme of delegation. In London the taxi and private hire vehicle licensing function is undertaken by Transport for London.
- 5.2 Licensing authorities should ensure that all individuals that determine whether a licence is issued or refused are adequately resourced to allow them to discharge the function effectively and correctly.

Training decision makers

- 5.3 **All individuals that determine whether a licence is issued should be required to undertake sufficient training.** As a minimum, training for a member of a licensing committee should include: licensing procedures, natural justice, understanding the risks of CSAE, disability and equality awareness and the making of difficult and potentially controversial decisions. Training should not simply relate to procedures, but should include the use of case study material to provide context and real scenarios. All training should be formally recorded by the licensing authority and require a signature from the person that has received the training. Training is available from a number of organisations including the Institute of Licensing and Lawyers in Local Government; the LGA may also be able to assist in the development of training packages.
- 5.4 Public safety is the paramount consideration but the discharge of licensing functions must be undertaken in accordance with the following general principles:
- policies should be used as internal guidance, and should be supported by a member/officer code of conduct.
 - any implications of the Human Rights Act should be considered.
 - the rules of natural justice should be observed.
 - decisions must be reasonable and proportionate.
 - where a hearing is required it should be fairly conducted and allow for appropriate consideration of all relevant factors.
 - decision makers must avoid bias (or even the appearance of bias) and predetermination.
 - data protection legislation.

5.5 When a decision maker has a prejudicial interest in a case, whether it be financial or a personal relationship with those involved they should declare their interest at the earliest opportunity; this must be prior to any discussions or votes and, once declared, they must leave the room for the duration of the discussion or vote.

The regulatory structure

5.6 It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.

5.7 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 5.4. In particular, the Committee/Board model allows for:

- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
- Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.

5.8 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees.

5.9 Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.

5.10 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers; however, this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close

connection between the officers on the panel, and those involved in the operational discharge of the licensing functions.

- 5.11 Whether the structure proposed is introduced or an alternative model is more appropriate in local circumstances, the objective should remain the same - to separate the investigation of licensing concerns and the management of the licence process. Regardless of which approach is adopted, **all licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence.** It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service.

Fit and proper test

- 5.12 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

- 5.13 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 5.14 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

Criminal convictions and rehabilitation

- 5.15 In considering an individual's criminal record, licensing authorities must consider each case on its merits, but they should take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime. In order to achieve consistency, and to mitigate the risk of successful legal challenge, licensing authorities should have a clear policy for the consideration of criminal records. This should include, for example, which offences would prevent an applicant from being licenced regardless of the period elapsed in all but truly exceptional circumstances. In the case of lesser offences, a policy should consider the number of years the authority will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

- 5.16 Annexed to this document are the Department's recommendations on the assessment of previous convictions (Annex – Assessment of previous convictions). This draws on the work of the Institute of Licensing, in partnership with the LGA, the National Association of Licensing Enforcement Officers (NALEO) and Lawyers in Local Government, in publishing its guidance on determining the suitability of taxi and private hire vehicle licensees.
- 5.17 These periods should be taken as a starting point in considering whether a licence should be granted or renewed in all cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain a licence. Authorities are however reminded that applicants are entitled to a fair and impartial consideration of their application.

6. Driver Licensing

Criminality checks for drivers

- 6.1 Licensing authorities are entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all driver licence holders or applicants. The DfT's 2019 [survey of taxi and private hire vehicle licensing authorities](#) shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal.
- 6.2 All individuals applying for or renewing a taxi or private hire vehicle drivers licence licensing authorities should carry out a check of the children and adult Barred Lists in addition to being subject to an enhanced DBS check (in section x61 of the DBS application 'Other Workforce' should be entered in line 1 and 'Taxi Licensing' should be entered at line 2). All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.
- 6.3 Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the barred list. This means that an individual subject to barring would not be legally prevented from being a taxi or private hire vehicle driver but the licensing authority should take an individual's barred status into account alongside other information available. **In the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list.** Should a licensing authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a barred list to be 'fit and proper', the reasons for reaching this conclusion should be recorded.
- 6.4 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the [Safeguarding Vulnerable Groups Act 2006](#). It is an offence to knowingly allow a barred individual to work in regulated activity. The [guidance on home-to-school travel and transport](#) issued by the Department for Education should be considered alongside this document. Please see [guidance](#) on driver DBS eligibility and how to apply.

Safeguarding awareness

- 6.5 Licensing authorities should consider the role that those in the taxi and private hire vehicle industry can play in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

6.6 All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers to undertake safeguarding training. This is often produced in conjunction with the police and other agencies. These programmes have been developed to help drivers and operators:

- provide a safe and suitable service to vulnerable passengers of all ages;
- recognise what makes a person vulnerable; and
- understand how to respond, including how to report safeguarding concerns and where to get advice.

6.7 Since 2015, the Department for Education (DfE) has run a nationwide campaign – *‘Together, we can tackle child abuse’* which aims to increase public understanding of how to recognise the signs to spot and encourage them to report child abuse and neglect. The DfE continues to promote and raise awareness of the campaign materials through its [online toolkit](#), for local authorities, charities and organisations for use on their social media channels.

‘County lines’ exploitation

6.8 County lines is a term used to describe gangs and organised criminal networks involved in exporting illegal drugs (primarily crack cocaine and heroin) into one or more importing areas [within the UK], using dedicated mobile phone lines or other form of “deal line”.

6.9 Exploitation is an integral part of the county lines offending model with children and vulnerable adults exploited to transport (and store) drugs and money between locations. Children aged between 15-17 make up the majority of the vulnerable people involved in county lines, but they may also be much younger. We know that both girls and boys are groomed and exploited and offenders will often use coercion, intimidation, violence (including sexual violence) and weapons to ensure compliance of victims. Children exploited by county lines gangs may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues, being excluded from school or frequently going missing.

6.10 The National Crime Agency’s 2018 county lines threat assessment set out that the national road network is key to the transportation of county lines victims, drugs and cash; with hire vehicles being one of the methods used for transportation between locations.

6.11 Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation. Firstly, they should be aware of the following warning signs:

- Children and young people travelling in taxis or private hire vehicles alone;

- travelling at unusual hours (during school time, early in the morning or late at night);
- travelling long distances;
- unfamiliar with the local area or do not have a local accent;
- paying for journeys in cash or prepaid.

6.12 The Home Office is working with partners to raise awareness of county lines and has provided [material](#) to help taxi and private vehicle hire staff to identify victims and report concerns to protect those exploited through this criminal activity.

6.13 Drivers (or any person) should be aware of what to do if they believe a child or vulnerable person is at risk of harm. If the risk is immediate they should contact the police otherwise they should:

- use the local safeguarding process, the first step of which is usually to contact the safeguarding lead within the local authority;
- call Crime Stoppers on 0800 555 111.

Language proficiency

6.14 A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.

6.15 A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above.

7. Vehicle Licensing

7.1 As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

Criminality checks for vehicle proprietors

7.2 Enhanced DBS and barred list checks are not available for vehicle licensing. **Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the ‘fit and proper’ threshold.

7.3 However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.

7.4 A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant’s full consent has been given.

7.5 Private hire vehicle operator and vehicle licences may be applied for by a company or partnership; licensing authorities should apply the ‘fit and proper’ test to each of the directors or partners in that company or partnership. For this to be effective private hire vehicle operators and those to whom a vehicle licence should be required to advise the licensing authority of any change in directors or partners.

7.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas so other checks must be considered where and applicant has lived or worked overseas (see paragraph 4.34 - 4.36).

In-vehicle visual and audio recording – CCTV

7.7 Government has acknowledged the potential risk to public safety when passengers travel in taxis and private hire vehicles. It is unfortunately the case that no matter how complete the information available to licensing authorities is when assessing whether to issue any taxi or private hire vehicle licence, nor how robust the policies in place are and the rigor with which they are applied, it will never completely remove the possibility of harm to passengers by drivers.

7.8 The Department's view is that CCTV can provide additional deterrence to prevent this and investigative value when it does. The use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

7.9 All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.

7.10 While only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers. In addition, the evidential benefits of CCTV may increase the level of reporting of sexual offences. According to the [Crime Survey for England and Wales](#) only 17 percent of victims report their experiences to the police, 28 percent of rape or sexual assault victims indicated that a fear they would not be believed as a factor in them not reporting the crime. The evidential benefits CCTV could provide are therefore an important factor when considering CCTV in vehicles.

7.11 The mandating of CCTV in vehicles may deter people from seeking a taxi or private hire vehicle licence with the intent of causing harm. Those that gain a licence and consider perpetrating an opportunistic attack against a vulnerable unaccompanied passenger may be deterred from doing so. It is however unfortunately the case that offences may still occur even with CCTV operating.

7.12 CCTV systems that are able to record audio as well as visual data may also help the early identification of drivers that exhibit inappropriate behaviour toward passengers. Audio recording should be both overt (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or

drivers) consider it necessary). The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button.

- 7.13 Imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and will therefore require an appropriately strong justification and must be kept under regular review. More information and guidance on assessing the impacts of CCTV and on an authority mandating CCTV is annexed to this document (Annex – CCTV guidance).

Stretched Limousines

- 7.14 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as private hire vehicles, these vehicles may be used for transport to 'school proms' as well as for adult bookings. It is suggested that licensing authorities should approach such requests on the basis that these vehicles – where they have fewer than nine passenger seats - have a legitimate role to play in the private hire trade, meeting a public demand. It is the Department's view that it is not a legitimate course of action for licensing authorities to adopt policies that exclude limousines as a matter of principle thereby excluding these services from the scope of the private hire vehicle regime and the safety benefits this provides. A blanket policy of excluding limousines may create an unacceptable risk to the travelling public, as it may lead to higher levels of unsupervised operation. Public safety considerations are best supported by policies that allow respectable, safe operators to obtain licences on the same basis as other private hire vehicle operators.
- 7.15 Stretched large limousines which clearly seat more than eight passengers should not be licensed as private hire vehicles because they are outside the licensing regime for private hire vehicles. However, in some circumstances a vehicle with space for more than eight passengers can be licensed as a private hire vehicle where the precise number of passenger seats is hard to determine. In these circumstances, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than eight passengers, bearing in mind that refusal may encourage illegal private hire operation.

8. Private Hire Vehicle Operator Licensing

8.1 As with driver licensing, the objective in licensing private hire vehicle operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those that are granted a private hire vehicle operator also pose no threat to the public and have no links to serious criminal activity. Although private hire vehicle operators may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the driver licensing regime.

Criminality checks for private hire vehicle operators

8.2 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. **Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold.

8.3 However, it is important that authorities acknowledge that in many cases individuals that license as a private hire vehicle operator may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately

8.4 Refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence; this decision must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

8.5 A private hire vehicle operator licence may be applied for by a company or partnership; licensing authorities should apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective

private hire vehicle operators should be required to advise the licensing authority of any change in directors or partners.

- 8.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas. Further information on assessing the suitability of those that have spent extended periods in overseas is provided in paragraphs 4.34 - 4.36.

Booking and dispatch staff

- 8.7 Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle dispatcher decides which driver to send to a user, a position that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 8.8 Licensing authorities should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. **Licensing authorities should, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept.**
- 8.9 Operators should be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. DBS certificates provided by the individual should be recently issued when viewed, alternatively the operator could use a '[responsible organisation](#)' to request the check on their behalf. When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.
- 8.10 The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept, this will enable cross-referencing between the two records. A record that the operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested and sight of this recorded.
- 8.11 Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults. Operators should be required to evidence that comparable protections are applied by the company to which they outsource these functions.

8.12 Licensing authorities should also require operators or applicants for a licence to provide their policy on employing ex-offenders in roles that would be on the register as above. As with the threshold to obtaining a private hire vehicle operators' licence, those with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

Record keeping

8.13 Section 56 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#) requires private hire vehicle operators to keep records of the particulars of every booking invited or accepted, whether it is from the passenger or at the request of another operator. **Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:**

- the name of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.

8.14 This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement. It is suggested that booking records should be retained for a minimum of six months.

8.15 Private hire vehicle operators have a duty under data protection legislation to protect the information they record. The Information Commissioner's Office provides comprehensive on-line guidance on registering as a data controller and how to meet their obligations.

Use of passenger carrying vehicles (PCV) licensed drivers

8.16 PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver. **The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such**

as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.

- 8.17 Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

9. Enforcing the Licensing Regime

9.1 Implementing an effective framework for licensing authorities to ensure that as full a range of information made available to suitably trained decision makers that are supported by well-resourced officials is essential to a well-functioning taxi and private hire vehicle sector. These steps will help prevent the licensing of those that are not deemed 'fit and proper' but does not ensure that those already licensed continue to display the behaviours and standards expected.

Joint authorisation of enforcement officers

9.2 Licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area. An agreement between licensing authorities to jointly authorise officers enables the use of enforcement powers regardless of which authority within the agreement the officer is employed by and which issued the licence. This will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and drivers that are licensed by the other authority when they cross over boundaries. A model for agreeing joint authorisation is contained in the [LGA Councillors' handbook](#).

Setting expectations and monitoring

9.3 Licensing authorities should ensure that drivers are aware of the policies that they must adhere and are properly informed of what is expected of them and the repercussions for failing to do so. Some licensing authorities operate a points-based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time.

9.4 The provision of a clear, simple and well-publicised process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity (see paragraphs 4.29 - 4.33). This will provide a further source of intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.

Suspension and revocation of driver licences

9.5 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides a licensing authority with the ability to suspend or revoke a driver's licence on the following grounds: -

(a) that he has since the grant of the licence—

- (i) been convicted of an offence involving dishonesty, indecency or violence; or
- (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;
- (aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
- (b) any other reasonable cause

9.6 Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. [Guidance for licensing authorities](#) to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.

9.7 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.

9.8 A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.

9.9 New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.

9.10 A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

Annex – Assessment of Previous Convictions

Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is 'fit and proper' to hold a taxi or private hire vehicle licence. The following recommendations to licensing authorities on previous convictions reflect this.

Authorities must consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.

Crimes resulting in death

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

Exploitation

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence against the person

Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Possession of a weapon

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Sexual offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.

In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

Dishonesty

Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Drugs

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Motoring convictions

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

Drink driving/driving under the influence of drugs

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Using a hand-held device whilst driving

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

Information included	Type of check			
	Basic check	Standard DBS check	Enhanced DBS check	Enhanced DBS (including barred list) check
Unspent convictions	Yes	Yes	Yes	Yes
Unspent cautions ¹	Yes	Yes	Yes	Yes
Spent convictions ²	No	Yes	Yes	Yes
Spent cautions ^{1 & 2}	No	Yes	Yes	Yes
Additional police Information ³	No	No	Yes	Yes
Barred list(s) Information ⁴	No	No	No	Yes

1. Does not include fixed penalty notices, penalty notices for disorder or any other police or other out-of-court disposals.
2. Spent convictions and cautions that have become protected under the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975, as amended, are not automatically disclosed on any level of certificate. Further guidance is available [the DBS filtering guide](#).
3. This is any additional information held by the police which a chief police officer reasonably believes to be relevant and considers ought to be disclosed.
4. This is information as to whether the individual concerned is included in the children's or adults' barred lists maintained by the Disclosure and Barring Service (DBS).

Annex – CCTV Guidance

It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles will be responsible for the data – the data controller. It is important that data controllers fully consider concerns regarding privacy and licensing authorities should consider how systems are configured, should they mandate CCTV (with or without audio recording). For example, vehicles may not be exclusively used for business, also serving as a car for personal use - it should therefore be possible to manually switch the system off (both audio and visual recording) when not being used for hire. Authorities should consider the Information Commissioner's view on this matter that, in most cases, a requirement for continuous operation is unlikely to be fair and lawful processing of personal data.

The Home Office '[Surveillance Camera Code of Practice](#)' advises that government is fully supportive of the use of overt surveillance cameras in a public place whenever that use is:

- in pursuit of a legitimate aim;
- necessary to meet a pressing need;
- proportionate;
- effective, and;
- compliant with any relevant legal obligations

The Code also sets out 12 guiding principles which, as a 'relevant authority' under section 33(5) of the [Protection of Freedoms Act 2012](#), licensing authorities must have regard to. It must be noted that, where a licence is granted subject to CCTV system conditions, the licensing authority assumes the role and responsibility of 'System Operator'. The role requires consideration of all guiding principles in this code. The failure to comply with these principles may be detrimental to the use of CCTV evidence in court as this may be raised within disclosure to the Crown Prosecution Service and may be taken into account.

The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '[Passport to Compliance](#)' which provides guidance on the necessary stages when planning, implementing and operating a surveillance camera system to ensure it complies with the code. The Information Commissioner's Office (ICO) has also published a [code of practice](#) which, in this context, focuses on the data governance requirement associated with the use of CCTV such as data retention and disposal, which it is important to follow in order to comply with the data protection principles. The SCC provides a [self-assessment tool](#) to assist operators to ensure compliance with the principles set out in the Surveillance Camera Code of Practice. The SCC also operate a [certification scheme](#); authorities that obtain this accreditation are able to clearly demonstrate that their systems conform to the SCC's best practice and are fully compliant with the Code and increase public confidence that any risks to their privacy have been fully considered and mitigated.

The [Data Protection Act 2018](#) regulates the use of personal data. Part 2 of the Data Protection Act applies to the general processing of personal data, and references and supplements the General Data Protection Regulation. Licensing authorities, as data controllers, must comply with all relevant aspects of data protection law. Particular attention should be paid to the rights of individuals which include the right to be informed, of access

and to erasure. The ICO has provided detailed [guidance](#) on how data controllers can ensure compliance with these.

It is a further requirement of data protection law that before implementing a proposal that is likely to result in a high risk to the rights and freedoms of people, an impact assessment on the protection of personal data shall be carried out. The ICO recommends in [guidance](#) that if there is any doubt as to whether a Data Protection Impact Assessment (DPIA) is required one should be conducted to ensure compliance and encourage best practice. A DPIA will also help to assess properly the anticipated benefits of installing CCTV (to passengers and drivers) and the associated privacy risks; these risks might be mitigated by having appropriate privacy information and signage, secure storage and access controls, retention policies, training for staff how to use the system, etc.

It is essential to ensure that all recordings made are secure and can only be accessed by those with legitimate grounds to do so. This would normally be the police if investigating an alleged crime or the licensing authority if investigating a complaint or data access request. Encryption of the recording to which the licensing authority, acting as the data controller, holds the key, mitigates this issue and protects against theft of the vehicle or device. It is one of the guiding principles of data protection legislation, that personal data (including in this context, CCTV recordings and other potentially sensitive passenger information) is handled securely in a way that 'ensures appropriate security', including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

All passengers must be made fully aware if CCTV is operating in a vehicle. Given that audio recording is considered to be more privacy intrusive, it is even more important that individuals are fully aware and limited only to occasions when passengers (or drivers) consider it necessary. The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button. As well as clear signage in vehicles, information on booking systems should be introduced. This might be text on a website, scripts or automated messages on telephone systems; the Information Commissioner's Office (ICO) has issued guidance on privacy information and the right to be informed on its website.

Annex - Staying Safe: Guidance for Passengers

Licensing authorities should provide guidance to assist passengers in identifying licensed vehicles and the increased risks of using unlicensed vehicles. The guidance might include advice on:

- how to tell if a taxi or private hire vehicle is licensed.

Educate the public in the differences between taxis and private hire vehicles e.g.:

- a taxi can be flagged down or pre-booked.
- a private hire vehicle that has not been pre-booked should not be used as it will not be insured and may not be licensed.
- what a private hire vehicle should look like e.g. colour, signage, licence plates etc.
- the benefit of pre-booking a return vehicle before going out.
- arrange to be picked up from a safe meeting point.
- requesting at the time of booking what the fare is likely to be.

When using a private hire vehicle, passengers should always:

- book with a licensed operator.
- confirm their booking with the driver when s/he arrives.
- note the licence number.
- sit in the back, behind the driver.
- let a third party know details of their journey.

When using a taxi, passengers should where possible:

- use a taxi rank and choose one staffed by taxi marshals if available.

The Information Commissioner's response to the Department for Transport's consultation on Statutory Guidance for Licensing Authorities; Taxi and Private Hire Vehicle Licensing: Protecting Users.

Overview

The Information Commissioner has responsibility for promoting and enforcing the EU General Data Protection Regulation ('GDPR'), the Data Protection Act 2018 ('DPA'), the Freedom of Information Act 2000 ('FOIA'), the Environmental Information Regulations 2004 ('EIR') and the Privacy and Electronic Communications Regulations 2003 ('PECR'). She is independent from government and upholds information rights in the public interest, promoting openness by public bodies and data privacy for individuals. The Commissioner does this by providing guidance to individuals and organisations, solving problems where she can, and taking appropriate action where the law has been broken.

The Commissioner welcomes the Department for Transport's prior engagement with us on the Statutory Guidance for Licensing Authorities; and now the opportunity to provide a response to the formal consultation. We have reviewed the consultation paper and identified that many of the questions do not specifically fall within our remit. It is predominantly the questions regarding in-vehicle visual and audio that are of particular interest to us and so we have set out our answers and any additional appropriate comments below.

General Comments

We welcome the fact that the draft guidance encourages compliance with data protection legislation. As a means of signposting data protection as an important element of the framework in which licensing will be administered, you may wish to consider whether at 2.19 it would be helpful to include 'data protection legislation' alongside 'the Human Rights Act'.

In reviewing the papers that support the statutory guidance, including the Government's response to the report of the Task and Finish Group on Taxi and Private Hire Vehicle Licensing, we noted a number of references to introducing legislation. Whilst we appreciate that this perhaps falls outside of the scope of this consultation, we wanted to highlight a specific requirement in GDPR (Article 36(4)) for Government departments to consult the Commissioner where they are developing proposals for

legislation which concerns, requires or provides for data processing. We trust that the Department will contact us as any proposals are developed and the following [guidance](#) details how you do this and the information we require.

We note that a number of references are made within the statutory guidance to sharing appropriate information with relevant partners, such as the police and neighbouring authorities. Controllers need to be aware of their obligations to data protection law in terms of data sharing: respective responsibilities must be clear, and data that is shared must be necessary and relevant. The Commissioner supports the appropriate use of data sharing to enable better regulation of the taxi and PHV sector. She would reinforce the message that the DPA and GDPR should not be seen as a barrier to justified and proportionate data sharing.

Ensuring that appropriate procedures are in place, such as data sharing agreements, will help to build the necessary relationships with partners to enable the right information to be shared as quickly as possible, whilst meeting good practice. The ICO is currently in the process of updating its statutory data sharing code of practice and will be publishing this for consultation shortly.

The Task and Finish Group on Taxi and Private Hire Vehicle Licensing recommended the formation of a 'mandatory national database' of taxi and PHV licensees. We are aware that plans for this database are now in train, albeit progressed under the banner of the Clean Air Zones programme. Assuming that taxi and PHV licensing bodies will be given access to this database, you may also wish to consider whether the statutory guidance provides a useful vehicle to promote the database as a valuable data sharing tool for licensing authorities.

In relation to paragraph 2.34 and 2.35, whilst we recognise the message intended here in relation to enforced subject access requests, we do feel that there is potential for misinterpretation with how the two paragraphs have been separated. We think it would be helpful if this issue was addressed within the same paragraph and perhaps reworded slightly to make it clearer. We would make the following suggestion:

It should be noted that licensing authorities must not seek to circumvent the legitimate filtering of previous criminal convictions and other information held by the DBS. Whilst data protection legislation gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them. It is a criminal offence for you to require an individual to exercise this right to enable you to gain access to information about their convictions and cautions. This could potentially lead to the

disclosure of information that you wouldn't otherwise be entitled to. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.

In-vehicle visual and audio

Q. 26. The draft statutory guidance recommends that licensing authorities should carefully consider potential public safety benefits and potential privacy issues when considering mandating that taxis and PHVs have CCTV installed (paragraphs 2.104 to 2.109). Do you agree with this recommendation?

The matter of CCTV and audio in taxis has been the subject of lengthy consideration at the ICO and we have engaged closely with relevant stakeholders on this issue. The Commissioner published a [blog](#) back in August 2018 setting out her concerns and view on this issue.

She fully appreciates the public safety and safeguarding benefits that can be achieved for mandating the installation of CCTV in taxis and PHV's. However, in order to comply with their obligations under data protection legislation, it is important that licensing authorities understand the need to balance their responsibilities to protect its drivers and the public with the privacy rights of those individuals.

Consideration of individuals' rights and potential privacy implications should be integral to any installation of CCTV/surveillance system. The GDPR requires you to put in place appropriate technical and organisational measures to implement the data protection principles and safeguard individual rights. This is known as '[data protection by design and by default](#)'. Data protection by design is about considering data protection and privacy issues upfront in everything you do. It can help you ensure that you comply with the GDPR's fundamental principles and requirements, and forms part of the focus on accountability.

Data Privacy Impact Assessments (DPIAs) form part of the 'data protection by design and by default' and accountability approach under GDPR. Article 35 requires organisations to carry out a DPIA before carrying out types of processing likely to result in a high risk to the rights and freedoms of individuals in specified circumstances, such as intrusive surveillance systems.

The Commissioner welcomes the detailed references that are made in the statutory guidance in relation to data protection, individual rights, privacy considerations and undertaking robust DPIAs.

The Commissioner expressed in her [blog](#) on this issue that we had concerns in relation to the approaches being adopted by some councils. Our concerns are not so much about the mandated use of CCTV while the vehicle is being used as a licensed taxi/PHV. Our main concern is where

an authorities policy requires that CCTV is operational continuously, meaning the cameras are also operating when the vehicle is being used privately by the driver. The Commissioner's view on this matter is that, in most cases, this is unlikely to be fair and lawful processing of personal data. It would be extremely difficult to evidence the justification and proportionality for this approach and as such is likely to breach data protection and privacy law. We welcome the Department's support of this view which is acknowledged at 2.108 of the guidance.

Q. 27 The draft statutory guidance recommends that CCTV recordings in taxis and PHVs should be encrypted and accessible only by licensing authority officials (if acting a data controller), the police or when subject to a data subject access request (paragraph 2.114). Do you agree with this recommendation?

As highlighted above, the GDPR requires you to implement appropriate technical and organisational measures to ensure you process personal data securely. Article 32 of the GDPR includes encryption as an example of an appropriate technical measure, depending on the nature and risks of your processing activities. The ICO has seen numerous incidents of personal data being subject to unauthorised or unlawful processing, loss, damage or destruction. In many cases, the damage and distress caused by these incidents may have been reduced or even avoided had the personal data been encrypted. It is possible that, where data is lost or destroyed and it was not encrypted, regulatory action may be pursued by the ICO (depending on the context of each incident). Therefore, the Commissioner welcomes the recommendation that the recordings should be encrypted.

In terms of responsibility for the data/footage that is collected (who is the controller), this will depend on who determines the purposes for which the data are processed and the means of processing. The Commissioner has indicated that if a licensing authority has a mandatory policy for the installation of CCTV in taxis, it is likely, in most circumstances, that they would be the data controller, and welcomes the statutory guidance's support for this view at 2.108. From a security and compliance perspective, it is entirely appropriate that the footage can only be accessed by those with legitimate grounds to do so (ie. where the licensing authority is a controller, the driver cannot access/tamper with the footage). The Commissioner also welcomes this recommendation at 2.115.

We are pleased to note the recommendation at 2.116 in relation to making passengers aware that CCTV is operating. This is a key transparency requirement under GDPR, which provides individuals with an individual right to be informed about the use of their personal data. The ICO advises that it is often most effective to provide privacy information

to people using a combination of different techniques such as layering. It is important that the signage in the vehicles inform the individual who the data controller is and where they can go to make a subject access request or find out more information, such as the purposes for their information being processed, retention periods and who the information may be shared with. The guidance does make reference to this kind of layered approach but it may benefit from highlighting that the ICO has further guidance on privacy information and the [right to be informed](#) on its website. We also feel that additional reference to audio could be made here in relation to informing passengers when audio is in operation. There is a brief reference to this at 2.107, but given that audio is considered to be more privacy intrusive, the importance of informing individuals when an audio recording is being made could be further reinforced at 2.116.

Information Commissioner's Office
17 April 2019

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April 2019

Surveillance Camera Commissioner consultation response to the Department for Transport consultation on statutory guidance for taxi and private hire vehicles licensing authorities.

1. The Surveillance Camera Commissioner welcomes the opportunity to provide input in to this consultation on statutory guidance for licensing authorities with regard to taxis. He has worked with the Department for Transport in development of the draft guidance that was issued for consultation.
2. The Commissioner recognises that it refers local authorities to the Surveillance Camera Code of Practice. The Protection of Freedoms Act 2012 (PoFA) s.33(5) sets out that they must pay due regard to the code. It is also encouraging that the guidance refers to a number of the tools the Commissioner has issued to help organisations comply with the 12 guiding principles in the code. As relevant authorities under PoFA, local authorities must be made aware that if they do not pay due regard to the code this is admissible as evidence in court. The Crown Prosecution Service revised their Disclosure Manual in December 2018 to reflect this.
3. That said blanket licencing may be disproportionate and should only be used where there is a strong justification as set out in paragraph 1.15 of the code:

When a relevant authority has licensing functions and considers the use of surveillance camera systems as part of the conditions attached to a licence or certificate, it must in particular have regard to guiding principle one in this code. Any proposed imposition of a blanket requirement to attach surveillance camera conditions as part of the conditions attached to a licence or certificate is likely to give rise to concerns about the proportionality of such an approach and will require an appropriately strong justification and must be kept under regular review.

4. The Commissioner is aware of the blanket requirement for taxis in Rotherham to have CCTV installed. This was one of a number of measures implemented following the child abuse issues in the Town where taxis were used to transport a number of the victims. Here there was persuasive evidence to argue sufficient justification but the Commissioner would not expect widespread installation of CCTV in taxis without well evidenced justifications. The local authority's Senior Responsible Officer for compliance with PoFA and the code will be able to advise on justification requirements for CCTV.

5. Furthermore, CCTV in taxis typically also records audio (as well as video). The recording of conversations is extremely intrusive and requires strong justification as set out in paragraph 3.3.2 of the code:

Any proposed deployment that includes audio recording in a public place is likely to require a strong justification of necessity to establish its proportionality. There is a strong presumption that a surveillance camera system must not be used to record conversations as this is highly intrusive and unlikely to be justified.

6. A key part in the process for justifying a surveillance camera system is consultation. The Commissioner would expect to see clear evidence of public consultation before any final decision about installation is made. This consultation should involve members of the public, taxi drivers, police and any relevant regulators.
7. Local authorities must also have completed a data protection impact assessment prior to installation and have consulted their data protection officer and legal teams. There is a surveillance camera specific DPIA template on the Commissioner's website which was developed in conjunction with the Information Commissioner's Office.
8. Where it is the case that taxi drivers use the vehicle for their own private use the Commissioner would expect there to be a facility to switch off recording. In addition there must be clear policies and procedures in place regarding how the CCTV system is used and who can access the footage it records and where CCTV systems are IP enabled (connected to the internet) then they must be cyber secure.
9. The Commissioner would recommend that installation of any system should include a full operational requirement which can be achieved by using the Commissioner's Buyers' Toolkit and/or Passport to Compliance documents. This will ensure that a system is installed that is fit for purpose and actually delivers footage that can be used in court if required. Whilst the Commissioner appreciates the austere times that local authorities are working in, he would not expect that substandard systems are installed to save money particularly if the justification of the system is passenger and driver safety.



Home Office

Surveillance Camera Code of Practice

First Published June 2013

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Paper to lie before both Houses of Parliament for 40 days during which time either House may resolve that the updated Code be not issued.

Surveillance Camera Code of Practice

Presented to Parliament Pursuant to Section 31 (3)
of the Protection of Freedoms Act 2012



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Introduction and overview

Definitions

1. In this code:
 - “HRA 1998” means the Human Rights Act 1998.
 - “RIPA 2000” means the Regulation of Investigatory Powers Act 2000.
 - “EA 2010” means the Equality Act 2010.
 - “PoFA 2012” means the Protection of Freedoms Act 2012.
 - “IPA 2016” means the Investigatory Powers Act 2016.
 - “DPA 2018” means the Data Protection Act 2018.
 - “Data protection legislation” means DPA 2018 and the UK General Data Protection Regulation.
 - “ECHR” means the European Convention on Human Rights.
 - “Overt surveillance” means any use of surveillance for which authority does not fall under RIPA 2000.
 - “Public place” has the meaning given by Section 16(b) of the Public Order Act 1986 and is taken to include any highway and any place to which at the material time the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.
 - “Relevant authority” has the meaning given by Section 33(5) of PoFA 2012.
 - “Surveillance camera systems” has the meaning given by Section 29(6) of PoFA 2012 and is taken to include: (a) closed circuit television (CCTV) or automatic number plate recognition (ANPR) systems; (b) any other systems for recording or viewing visual images for surveillance purposes; (c) any systems for storing, receiving, transmitting, processing or checking the images or information obtained by (a) or (b); (d) any other systems associated with, or otherwise connected with (a), (b) or (c)¹.
 - “System Operator” – person or persons that take a decision to deploy a surveillance camera system, and/or are responsible for defining its purpose, and/or are responsible for the control of the use or processing of images or other information obtained by virtue of such system.
 - “System User” – person or persons who may be employed or contracted by the system operator who have access to live or recorded images or other information obtained by virtue of such system.
 - “Commissioner” is the role undertaken by the Surveillance Camera Commissioner, as set out in PoFA 2012. To encourage compliance with this code, it is the function of the Commissioner to provide information and advice on all matters within this code relevant to surveillance camera systems².

1 Excludes any camera system with relevant type approval of a prescribed device under Section 20 of the Road Traffic Offenders Act 1988 used exclusively for enforcement purposes, which captures and retains an image only when the relevant offence is detected and with no capability to be used for any surveillance purpose. For example, for the enforcement of speeding offences.

2 The Commissioner’s functions are set out in Section 34(2) of the 2012 Act: a) Encouraging compliance with the surveillance camera code; b) Reviewing operation of the code, and c) Providing advice about the code.

Background

2. This code of practice is issued by the Secretary of State under Sections 29 to 31 of PoFA 2012. It provides guidance on the appropriate and effective use of surveillance camera systems by relevant authorities (as defined by Section 33(5) of PoFA 2012) in England and Wales who must, under Section 33(1) of PoFA 2012, have regard to the code when exercising any functions to which the code relates. Other operators and users of surveillance camera systems in England and Wales are encouraged to adopt the code voluntarily. It is a significant step in the ongoing process of delivering the government's commitment to the 'further regulation of CCTV' which it believes is a task that is best managed in gradual and incremental stages. As understanding and application of the code increases the government may consider including other bodies as relevant authorities who will have to have regard to the code.

Purpose of the code

3. This code covers technology systems that are associated with, or otherwise connected with, surveillance cameras. Modern and ever-advancing surveillance camera technology provides increasing potential for the gathering and use of images and associated information. These advances vastly increase the ability and capacity to capture, store, share and analyse images, information and data. Advancements in sensor technology and artificial intelligence are developing at an ever-increasing pace, as is the ability to integrate these technologies with surveillance cameras. The overarching purpose of this code is to enable operators of surveillance camera systems to make legitimate use of available technology in a way that the public would rightly expect and to a standard that maintains public trust and confidence.
4. Surveillance camera systems are deployed extensively within England and Wales, and these systems form part of a complex landscape of ownership, operation and accountability. Where used appropriately, these systems are valuable tools which contribute to public safety and security, and in protecting both people and property.
5. The government is fully supportive of the use of overt surveillance camera systems in a public place whenever that use is: in pursuit of a legitimate aim; necessary to meet a pressing need; proportionate; effective, and compliant with any relevant legal obligations. It is the way in which technology is used that is potentially intrusive rather than the technology itself and therefore a decision to use any surveillance camera technology must be articulated clearly, documented as to the stated purpose for any deployment and be transparent, with the community being informed as to the nature of the surveillance activity being conducted and the justification for it taking place. The technical design solution for such a deployment should be proportionate to the stated purpose rather than driven by the availability of funding or technological innovation. Decisions as to the most appropriate technology should always consider the potential to meet the stated purpose without unnecessary interference with human rights; and any deployment should not continue for longer than necessary.
6. This code identifies clear standards and good practice without being prescriptive about the detail of how the guiding principles must be followed, or about any specific operational, technical or competency measures which a system operator should follow. This is to ensure it does not stifle innovation or fail to retain currency in an arena where technology and professional practice is expected to continue evolving.

Scope of surveillance activity to which this code applies

7. The code applies to the use of surveillance camera systems as defined by Section 29(6) of PoFA 2012 that operate in public places in England and Wales, regardless of whether there is any live viewing or recording of images or information or associated data. Covert surveillance by public authorities (as defined in Part II of RIPA 2000) is not covered by this code but is regulated by RIPA 2000.

Effect of the Code

8. By virtue of Section 33(1) of PoFA 2012, a relevant authority is under a duty to have regard to this code when, in exercising any of its functions, it considers that the future deployment or continued deployment of overt surveillance camera systems to observe public places may be appropriate. This can include the operation or use of any surveillance camera systems, or the use or processing of images or other information obtained by virtue of such systems. "Having regard" to statutory guidance means that relevant authorities should take statutory guidance into account and if they decided to depart from it, they would have to have and give clear reasons for doing so³. It is a legitimate public expectation of relevant authorities that they are able to demonstrate how they have had regard to this code.
9. The duty to have regard to this code also applies when a relevant authority uses a third party to discharge relevant functions covered by this code and where it enters into partnership arrangements.
10. The duty to have regard does not extend to such third-party service providers or partners unless they themselves are a relevant authority. Contractual provisions or memoranda of understanding agreed after this code comes into effect with such third party service providers or partners must ensure that contractors are obliged by the terms of the contract to have regard to the code when exercising functions to which the code relates.
11. When used as part of civil traffic enforcement arrangements, the primary purpose of any surveillance camera system must be the safe and efficient operation of the road network by deterring motorists from contravening parking or road traffic restrictions. Any proposal to impose surveillance camera requirements as part of the conditions attached to a licence or certificate is likely to give rise to concerns about the proportionality of such an approach and will require an appropriately strong justification and must be kept under regular review. Applications in relation to licensed premises and vehicles must consider the circumstances surrounding that application and whether a requirement to have a surveillance camera system is appropriate in that case. Where there is any conflict between this code and the legislation relevant to civil enforcement functions (including any secondary legislation made or statutory guidance issued) that legislation shall apply.
12. A failure on the part of any person to act in accordance with any provision of this code does not of itself make that person liable to criminal or civil proceedings. This code is, however, admissible in evidence in criminal or civil proceedings, and a court or tribunal may take into account a failure by a relevant authority to have regard to the code in determining a question in any such proceedings.
13. Other operators of surveillance camera systems who are not defined as relevant authorities are encouraged to adopt this code and its guiding principles voluntarily and make a public commitment to doing so. Such system operators do not have to have regard to this code but it is still considered best practice.

3 R. (on the application of London Oratory School Governors) v Schools Adjudicator [2015]. See also R (Munjaz) v Mersey Care NHS Trust [2006]

Overview

14. The starting point for a system operator in achieving the most appropriate balance between public protection and individual human rights is to adopt a single set of guiding principles that are applicable to all surveillance camera systems in public places. Following these guiding principles allows a system operator to establish a clear rationale for any overt surveillance camera deployment in public places and to run any such system effectively, which helps ensure compliance with other legal duties.
15. To achieve this, the code sets out 12 guiding principles that should apply to all surveillance camera systems in public places. These guiding principles draw together good practice and existing legal obligations to create a regulatory framework which can be understood by system operators and the public alike. The Commissioner can provide information and advice in how the principles can be applied in various situations.
16. The guiding principles can be applied to numerous variations in circumstances, including changes in technology and should enable a system operator to reach informed and appropriate decisions when considering either the development or use of surveillance camera systems or the use or processing of images, information or data obtained by virtue of such systems. However, relevant authorities are encouraged to seek advice from the Commissioner and other regulators⁴, before any trial or pilot of new technology is undertaken in a public place.

4 Where this is a forensic science activity over which the Forensic Science Regulator has oversight, the Forensic Science Code of Practice applies.

Guiding Principles

System operators should adopt the following 12 guiding principles:

1. Use of a surveillance camera system must always be for a specified purpose which is in pursuit of a legitimate aim and necessary to meet an identified pressing need.
2. The user of a surveillance camera system must take into account its effect on individuals and their privacy, with regular reviews to ensure its use remains justified.
3. There must be as much transparency in the use of a surveillance camera system as possible, including a published contact point for access to information and complaints.
4. There must be clear responsibility and accountability for all surveillance camera system activities including images and information collected, held and used.
5. Clear rules, policies and procedures must be in place before a surveillance camera system is used, and these must be communicated to all who need to comply with them.
6. No more images and information should be stored than that which is strictly required for the stated purpose of a surveillance camera system, and such images and information should be deleted once their purposes have been discharged.
7. Access to retained images and information should be restricted and there must be clearly defined rules on who can gain access and for what purpose such access is granted; the disclosure of images and information should only take place when it is necessary for such a purpose or for law enforcement purposes.
8. Surveillance camera system operators should consider any approved operational, technical and competency standards relevant to a system and its purpose and work to meet and maintain those standards.
9. Surveillance camera system images and information should be subject to appropriate security measures to safeguard against unauthorised access and use.
10. There should be effective review and audit mechanisms to ensure legal requirements, policies and standards are complied with in practice, and regular reports should be published.
11. When the use of a surveillance camera system is in pursuit of a legitimate aim, and there is a pressing need for its use, it should then be used in the most effective way to support public safety and law enforcement with the aim of processing images and information of evidential value.
12. Any information used to support a surveillance camera system which compares against a reference database for matching purposes should be accurate and kept up to date.

Principle 1 – Use of a surveillance camera system must always be for a specified purpose which is in pursuit of a legitimate aim and necessary to meet an identified pressing need.

- 1.1 Surveillance camera systems operating in public places must always have a clearly defined purpose or purposes in pursuit of a legitimate aim and be necessary to address a pressing need (or needs). Such a legitimate aim and pressing need include national security, public safety, the economic well-being of the country, the prevention of disorder or crime, the protection of health or morals, or the protection of the rights and freedoms of others. That purpose (or purposes) should be capable of translation into clearly articulated objectives against which the ongoing requirement for operation or use of the systems and any images or other information obtained can be assessed.
- 1.2 In assessing whether a system will meet its objectives, and in designing the appropriate technological solution to do so, a system operator should always consider the requirements of the end user of the images, particularly where the objective can be characterised as the prevention, detection and investigation of crime and the end user is likely to be the police and the criminal justice system.
- 1.3 A surveillance camera system should only be used in a public place for the specific purpose or purposes it was established to address. It should not be used for other purposes that would not have justified its establishment in the first place. Any proposed extension to the purposes for which a system was established and images and information are collected should be subject to consultation before any decision is taken. When using surveillance systems, you can only use the personal data for a new purpose if either this is compatible with your original purpose, you get consent from individuals, or you have a clear obligation or function set out in law

Principle 2 – The user of a surveillance camera system must take into account its effect on individuals and their privacy, with regular reviews to ensure its use remains justified.

- 2.1 HRA 1998 gave further effect in UK law to the rights set out in the ECHR. Some of these rights are absolute, while others are qualified or limited, meaning that it is permissible for the state to interfere with those rights if certain conditions are satisfied and the interference is proportionate. The use of surveillance cameras in public spaces places and selected sites could have the potential to impact on human rights including:
 - the right to respect for private and family life (Article 8);
 - freedom of thought, conscience and religion (Article 9);
 - freedom of expression (Article 10);
 - freedom of assembly and association (Article 11); and
 - protection from discrimination (Article 14).
- 2.2 The right to respect for private and family life set out in Article 8 of the ECHR enshrines in law a long held freedom enjoyed in England and Wales. People do, however, have varying and subjective expectations of privacy with one of the variables being situational. Deploying surveillance camera systems in public places where there is a particularly high expectation of privacy should only be done to address a particularly serious problem that cannot be addressed by less intrusive means. Such deployment should be subject to regular review, at least annually, to ensure it remains necessary.

- 2.3 Any proposed deployment that also includes audio recording in a public place is likely to require a strong justification of necessity to establish its proportionality. There is a strong presumption that a surveillance camera system must not be used to record conversations as this is highly intrusive and unlikely to be justified.
- 2.4 Any use of facial recognition or other biometric characteristic recognition systems needs to be clearly justified and proportionate in meeting the stated purpose, and be suitably validated. It should always involve human intervention before decisions are taken that affect an individual adversely.
- 2.5 This principle points to the need for a data protection impact assessment (DPIA) to be undertaken whenever the development or review of a surveillance camera system is being considered to ensure that the purpose of the system is and remains justifiable, there is consultation with those most likely to be affected, and the impact on their privacy is assessed and any appropriate safeguards can be put in place. Where such an assessment follows a formal and documented process, such processes help to ensure that sound decisions are reached on implementation and on any necessary measures to safeguard against disproportionate interference with privacy.
- 2.6 A DPIA also helps assure compliance with obligations as data controller under the data protection legislation⁵. Comprehensive guidance on undertaking a DPIA is available from the ICO. In the case of a public authority, this also demonstrates that both the necessity and extent of any interference with Article 8 and other individual rights has been considered. Relevant authorities should satisfy themselves that a surveillance camera system does not produce unacceptable bias on any relevant ground or characteristic of the individuals whose images might reasonably be expected to be captured by it and operators should take particular account of the Public Sector Equality Duty⁶.

Principle 3 – There must be as much transparency in the use of a surveillance camera system as possible, including a published contact point for access to information and complaints.

- 3.1 People in public places should normally be made aware whenever they are being monitored by a surveillance camera system, who is undertaking the activity and the purpose for which the associated information is to be used. This is an integral part of overt surveillance and is already a legal obligation under DPA 2018. Furthermore, such transparency supports and informs the public and forms part of the wider democratic accountability of surveillance by relevant authorities.
- 3.2 Responsible and legitimate surveillance is dependent upon transparency and accountability on the part of a system operator. The provision of information is the first step in transparency and is also a key mechanism of accountability. In the development or review of any surveillance camera system, proportionate consultation and engagement with the public and partners (including the police) will be an important part of assessing whether there is a legitimate aim and a pressing need, and whether the system itself is a proportionate response. Such consultation and engagement also provide an opportunity to identify any concerns and modify the proposition to strike the most appropriate balance between public protection and individual privacy.

5 Article 35 of the GDPR and Section 64 of DPA 2018.

6 s149 of EA 2010.

- 3.3 This means ensuring effective engagement with representatives of those affected and in particular where the measure may have a disproportionate impact on a particular community. It is important that consultation is meaningful and undertaken at a stage when there is a realistic prospect of influencing developments.
- 3.4 System operators should be proactive in the provision of regularly published information about the purpose, operation and effect of a system. This is consistent with the government's commitment to greater transparency on the part of public bodies.
- 3.5 In addition to the proactive publication of information about the stated purpose of a surveillance camera system, good practice includes considering the publication of information on the procedures and safeguards in place, impact assessments undertaken, performance statistics and other management information and any reviews or audits undertaken. Public authorities should consider including this information as part of their publication schemes under the Freedom of Information Act 2000.
- 3.6 This is not to imply that the exact location of surveillance cameras should always be disclosed if to do so would defeat the justified purpose identified under Principle 1.
- 3.7 A system operator should have an effective procedure for handling concerns and complaints from individuals and organisations about the use of surveillance camera systems. Information about complaints procedures should be made readily available to the public. Where a complaint is made and the complainant not satisfied with the response, there should be an internal review mechanism in place using a person not involved in handling the initial complaint. Complaints must be handled in a timely fashion and complainants given an indication of how long a complaint may take to handle at the outset.
- 3.8 Information should be provided to the complainant about any regulatory bodies who may have jurisdiction in that case such as the Information Commissioner or the Investigatory Powers Tribunal.
- 3.9 Where a complaint or other information comes to the attention of a relevant authority or other system operator that indicates criminal offences may have been committed in relation to a surveillance camera system, then these matters should be referred to the appropriate body, such as the police, the Independent Office for Police Conduct or the ICO for any offences under data protection legislation.
- 3.10 In line with government commitment towards greater transparency on the part of public authorities, a system operator should publish statistical information about the number and nature of complaints received and how these have been resolved on an annual basis at least.
- 3.11 The government's further commitment to 'open data' means that public authorities should consider making information available in reusable form so others can develop services based on this data. This would extend to information about surveillance camera systems.
- 3.12 The Commissioner has no statutory role in relation to the investigation and resolution of complaints. System operators should, however, be prepared to share information about the nature of complaints with the Commissioner on an ad hoc, and where appropriate, anonymised basis to assist in any review of the operation of this code.

Principle 4 – There must be clear responsibility and accountability for all surveillance camera system activities including images and information collected, held and used.

- 4.1 People considering the need to develop a surveillance camera system should give due consideration to the establishment of proper governance arrangements. There must be clear responsibility and accountability for such a system. It is good practice to have a designated individual responsible for the development and operation of a surveillance camera system, for ensuring there is appropriate consultation and transparency over its purpose, deployment and for reviewing how effectively it meets its purpose.
- 4.2 Where a system is jointly owned or jointly operated, the governance and accountability arrangements should be agreed between the partners and documented so that each of the partner organisations has clear responsibilities, with clarity over obligations and expectations and procedures for the resolution of any differences between the parties or changes of circumstance. Further guidance on this is available from the ICO.
- 4.3 A surveillance camera system may be used for more than one legitimate purpose. For example, one purpose might be crime prevention and detection, and another traffic management. Responsibility for each purpose may rest within different elements of a system operator's management structure but overall accountability for ensuring effective governance arrangements and facilitating effective joint working, review and audit, decision making and public engagement sits with the operator.

Principle 5 – Clear rules, policies and procedures must be in place before a surveillance camera system is used, and these must be communicated to all who need to comply with them.

- 5.1 There are significant benefits in having clear policies and procedures for the operation of any surveillance camera system. Where the operator is a relevant authority, their published policies will form part of the body of law under which they operate. Publishing and reviewing their policies and procedures will aid the effective management and use of a surveillance camera system and ensure that any legal obligations affecting the use of such a system are addressed.
- 5.2 A surveillance camera system operator is encouraged to follow a quality management system as a major step forward in controlling and improving their key processes. Where this is done through certification against a quality management standard, it can provide a robust operating environment with the additional benefit of reassurance for the public that the system is operated responsibly and effectively, and the likelihood of any breach of individual privacy is greatly reduced.
- 5.3 It is good practice that the communication of rules, policies and procedures should be done as part of the induction and ongoing professional training and development of all system users. This should maximise the likelihood of compliance by ensuring system users are competent, have relevant skills and training on the operational, technical and privacy considerations and fully understand the policies and procedures. It is a requirement of the data protection legislation that organisations ensure the reliability of staff having access to personal data, including images and information obtained by surveillance camera systems.
- 5.4 Wherever there are occupational standards available which are relevant to the roles and responsibilities of their system users, a systems operator should consider the benefits and any statutory requirements associated with such occupational standards.

- 5.5 The Commissioner will provide advice and guidance on relevant quality management and occupational competency standards.
- 5.6 Wherever a surveillance camera system covers public space, a system operator should be aware of the statutory licensing requirements of the Private Security Industry Act 2001. Under these requirements, the Security Industry Authority (SIA) is charged with licensing individuals working in specific sectors of the private security industry. A public space surveillance (CCTV) licence is required when operatives are supplied under a contract for services even where that service is provided by a relevant authority. The SIA can provide more information about licencing requirements.
- 5.7 SIA licensing is dependent upon evidence that an individual is fit and proper to fulfil the role, and evidence of their ability to fulfil a role effectively and safely with the right skills and knowledge. There are various relevant qualifications available, and training to attain these is delivered by a range of different accredited providers.
- 5.8 Even where there is no statutory licensing requirement, it is good practice for a system operator to ensure that all staff who either manage or use a surveillance camera system, or use or process the images and information obtained by virtue of such systems have the necessary skills and knowledge.

Principle 6 – No more images and information should be stored than that which is strictly required for the stated purpose of a surveillance camera system, and such images and information should be deleted once their purposes have been discharged.

- 6.1 Images and information obtained from a surveillance camera system should not be retained for longer than necessary to fulfil the purpose for which they were obtained in the first place. This is also a requirement of data protection legislation and further guidance on this is available from the ICO.
- 6.2 The retention period for different surveillance camera systems will vary due to the purpose for the system and how long images and other information need to be retained so as to serve its intended purpose. It is not, therefore, possible to be prescriptive about maximum or minimum periods. Initial retention periods should be reviewed by a system operator and reset in the light of experience. A proportionate approach should always be used to inform retention periods, and these should not be based upon infrequent exceptional cases.
- 6.3 Although images and other information should not be kept for longer than necessary to meet the purposes for recording them, on occasions, a system operator may need to retain images for a longer period, for example where a law enforcement body is investigating a crime, to give them the opportunity to view the images as part of an active investigation.

Principle 7 – Access to retained images and information should be restricted and there must be clearly defined rules on who can gain access and for what purpose such access is granted; the disclosure of images and information should only take place when it is necessary for such a purpose or for law enforcement purposes.

- 7.1 The sharing of images and other information obtained from a surveillance camera system must be controlled and consistent with the stated purpose for which the system was established. Disclosure of images or information may be appropriate where data protection

legislation makes exemptions which allow it, provided that the applicable requirements of the data protection legislation are met, or where permitted by other legislation such as the Counter Terrorism Act 2008. These exemptions include where non-disclosure would be likely to prejudice the prevention and detection of crime, and for national security purposes. Where a system operator declines a request for disclosure from a law enforcement agency, there is provision under Section 9 of and Schedule 1 to the Police and Criminal Evidence Act 1984 to seek a production order from a magistrate.

- 7.2 There may be other limited occasions when disclosure of images to another third party, such as a person whose property has been damaged, may be appropriate. Such requests for images or information should be approached with care and in accordance with the data protection legislation, as a wide disclosure may be an unfair intrusion into the privacy of the individuals concerned.
- 7.3 A system operator should have clear policies and guidelines in place to deal with any requests that are received. In particular:
- Arrangements should be in place to restrict disclosure of images in a way consistent with the purpose for establishing the system.
 - Where images are disclosed, consideration should be given to whether images that may identify individuals need to be obscured to prevent unwarranted identification.
 - Those that may handle requests for disclosure should have clear guidance on the circumstances in which disclosure is appropriate.
 - The method of disclosing images should be secure to ensure they are only seen by the intended recipient.
 - Appropriate records should be maintained.
- 7.4 Judgements about disclosure should be made by a system operator. They have discretion to refuse any request for information unless there is an overriding legal obligation such as a court order or information access rights. Once they have disclosed an image to another body, such as the police, then the recipient becomes responsible for their copy of that image. If the recipient is a relevant authority, it is then the recipient's responsibility to have regard to this code of practice and to comply with any other legal obligations such as data protection legislation and HRA 1998 in relation to any further disclosures.
- 7.5 Individuals can request images and information about themselves through a subject access request under the relevant part of the data protection legislation. Detailed guidance on this and matters such as when to withhold or obscure images of third parties caught in images is included in guidance issued by the ICO.
- 7.6 Requests for information from public bodies may be made under the Freedom of Information Act 2000. The ICO also produces detailed guidance on these obligations.

Principle 8 – Surveillance camera system operators should consider any approved operational, technical and competency standards relevant to a system and its purpose and work to meet and maintain those standards.

- 8.1 Approved standards may apply to the system functionality, the installation and the operation and maintenance of a surveillance camera system. These are usually focused on typical CCTV installations, however there may be additional standards applicable where the

system has specific advanced capability such as ANPR, video analytics or facial recognition systems, or where there is a specific deployment scenario, for example the use of body-worn video recorders.

- 8.2 Approved standards are available to inform good practice for the operation of surveillance camera systems, including those developed domestically by the British Standards Institute, at a European level by the Comité Européen de Normalisation Électrotechnique or at a global level by the International Electrotechnical Commission.
- 8.3 A system operator should consider any approved standards which appear relevant to the effective application of technology to meet the purpose of their system and take steps to secure certification against those standards. Such certification is likely to involve assessment by an independent certification body⁷. This has benefits for a system operator in that the effectiveness of a system is likely to be assured and in demonstrating to the public that suitable standards are in place and being followed.

Principle 9 – Surveillance camera system images and information should be subject to appropriate security measures to safeguard against unauthorised access and use.

- 9.1 Putting effective security safeguards in place helps ensure the integrity of images and information should they be necessary for use as evidence in legal proceedings. This also helps to foster public confidence in system operators and how they approach the handling of images and information.
- 9.2 Under the data protection legislation, those operating surveillance camera systems or who use or process images and information obtained by such systems must have a clearly defined policy to control how images and information are stored and who has access to them. The use or processing of images and information should be consistent with the purpose for deployment, and images should only be used for the stated purpose for which collected.
- 9.3 Security extends to technical and organisational security, including cyber and physical security. There need to be measures in place to ensure appropriate security of the data and guard against unauthorised use, access or disclosure. The ICO publishes helpful guidance on achieving this in practice.

Principle 10 – There should be effective review and audit mechanisms to ensure legal requirements, policies and standards are complied with in practice, and regular reports should be published.

- 10.1 A system operator should, as a matter of good governance, review and audit the continued use of a surveillance camera system on a regular basis, at least annually, together with relevant policies to ensure their system remains necessary, proportionate and effective in meeting its stated purpose(s).

⁷ For instance, the Commissioner's third-party certification scheme. A current list of recommended standards for consideration by a system owner and operator is maintained and made available by the Commissioner. Such a list will provide detailed guidance on suitable standards and the bodies that can accredit performance against such standards.

- 10.2 As part of the regular review of the necessity, proportionality and effectiveness of a surveillance camera system, a system operator should assess whether the location of cameras remains justified in meeting the stated purpose and whether there is a case for removal or relocation.
- 10.3 In reviewing the continued use of a surveillance camera system, a system operator should consider undertaking an evaluation to enable comparison with alternative interventions with less risk of invading individual privacy, and different models of operation (to establish for example any requirement for 24 hour monitoring). In doing so, there should be consideration of an assessment of the future resource requirements for meeting running costs, including staffing, maintenance, and repair.
- 10.4 A system operator should make a summary of such a review available publicly as part of the transparency and accountability for the use and consequences of its operation.

Principle 11 – When the use of a surveillance camera system is in pursuit of a legitimate aim, and there is a pressing need for its use, it should then be used in the most effective way to support public safety and law enforcement with the aim of processing images and information of evidential value.

- 11.1 The effectiveness of a surveillance camera system will be dependent upon its capability to capture, process, analyse and store images and information at a quality which is suitable for its intended purpose. Wherever the system is used for a law enforcement purpose, it must be capable through processes, procedures and training of system users, of delivering images and information that is of evidential value to the criminal justice system. Otherwise, the end user of the images, who are likely to be the police or a law enforcement agency, will not be able to play their part effectively in meeting the intended purpose of the system – it may be difficult for an operator to argue that their purpose is to detect crime if the quality of the images produced is inadequate to support that purpose.
- 11.2 It is important that there are effective safeguards in place to ensure the forensic integrity of recorded images and information and its usefulness for the purpose for which it is intended to be used. Recorded material should be stored in a way that maintains the integrity of the image and information, with particular importance attached to ensuring that meta data (e.g. time, date and location) is recorded reliably, and compression of data does not reduce its quality to an extent that it is no longer suitable for its intended purpose. This is to ensure that the rights of individuals recorded by a surveillance camera system are protected and that the material can be used as evidence in court. To do this, the medium on which the images and information are stored will be important, and access must be restricted. A record should be kept as an audit trail of how images and information are handled if they are likely to be used as exhibits for the purpose of criminal proceedings in court. Once there is no longer a clearly justifiable reason to retain the recorded images and information, they should be deleted.
- 11.3 It is important that digital images and other related information can similarly be shared with ease with appropriate agencies if this is envisaged when establishing a system. If this interoperability cannot be readily achieved, it may undermine the purpose for deploying the system
- 11.4 It is therefore essential that any digital images and information likely to be shared lawfully with other agencies and the criminal justice system are in a data format that is interoperable and can be readily exported, and then stored and analysed without any loss of forensic integrity. In particular:

- A system user should be able to export images and information from a surveillance camera system when requested.
- The export of images and information should be possible without interrupting the operation of the system.
- The exported images and information should be in a format which is interoperable and can be readily accessed and replayed.

Principle 12 – Any information used to support a surveillance camera system which compares against a reference database for matching purposes should be accurate and kept up to date.

- 12.1 Any use of technologies such as ANPR or facial recognition systems which may rely on the accuracy of information generated elsewhere, such as databases provided by others, should not be introduced without regular assessment to ensure the underlying data is fit for purpose.
- 12.2 A system operator should have a clear policy to determine the inclusion of a vehicle registration number or a known individual's details on the reference database associated with such technology. A system operator should ensure that reference data is not retained for longer than necessary to fulfil the purpose for which it was originally added to a database.
- 12.3 When using a surveillance camera system for live facial recognition (LFR) purposes to find people on a watchlist, chief police officers should:
- set out and publish (a) the categories of people to be included on a watchlist and (b) the criteria that will be used in determining when and where to deploy LFR, having regard to the need only to do so for a lawful policing purpose;
 - ensure that any biometric data that does not produce an alert against someone on the watchlist by the LFR system is deleted instantaneously or near-instantaneously;
 - have regard to the Public Sector Equality Duty, in particular taking account of any potential adverse impact that the LFR algorithm may have on members of protected groups;
 - establish an authorisation process for LFR deployments and identify the criteria by which officers are empowered to issue LFR deployment authorisations.



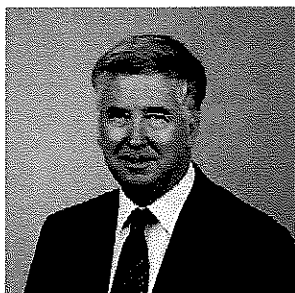
Department
for Business
Innovation & Skills

Better
Regulation
Delivery Office

Regulators' Code

April 2014

Foreword



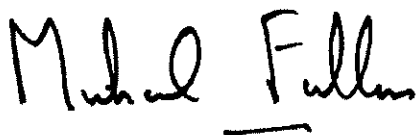
In the Autumn Statement 2012 Government announced that it would introduce a package of measures to improve the way regulation is delivered at the frontline such as the Focus on Enforcement review of appeals, the proposed Growth Duty for non-economic regulators and the Accountability for Regulator Impact measure.

This Government is committed to reducing regulatory burdens and supporting compliant business growth through the development of an open and constructive relationship between regulators and those they regulate. The Regulators' Code provides a flexible, principles based framework for regulatory delivery that supports and enables regulators to design their service and enforcement policies in a manner that best suits the needs of businesses and other regulated entities.

Our expectation is that by clarifying the provisions contained in the previous Regulators' Compliance Code, in a shorter and accessible format, regulators and those they regulate will have a clear understanding of the services that can be expected and will feel able to challenge if these are not being fulfilled.

Regulators within scope of the Regulators' Code are diverse but they share a common primary purpose – to regulate for the protection of the vulnerable, the environment, social or other objective. This Code does not detract from these core purposes but seeks to promote proportionate, consistent and targeted regulatory activity through the development of transparent and effective dialogue and understanding between regulators and those they regulate.

I believe the Regulators' Code will support a positive shift in how regulation is delivered by setting clear expectations and promising open dialogue. Ultimately this will give businesses greater confidence to invest and grow.

A handwritten signature in black ink that reads "Michael Fallon". The signature is written in a cursive style with a horizontal line underneath the name.

Michael Fallon
Minister of State for Business and Enterprise
Department for Business, Innovation and Skills

Regulators' Code

This Code was laid before Parliament in accordance with section 23 of the Legislative and Regulatory Reform Act 2006 ("the Act"). Regulators whose functions are specified by order under section 24(2) of the Act **must** have regard to the Code when developing policies and operational procedures that guide their regulatory activities. Regulators must equally have regard to the Code when setting standards or giving guidance which will guide the regulatory activities of other regulators. If a regulator concludes, on the basis of material evidence, that a specific provision of the Code is either not applicable or is outweighed by another relevant consideration, the regulator is not bound to follow that provision, but should record that decision and the reasons for it.

1. Regulators should carry out their activities in a way that supports those they regulate to comply and grow

1.1 Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities¹ and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity.

1.2 When designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth for compliant businesses and other regulated entities², for example, by considering how they can best:

- understand and minimise negative economic impacts of their regulatory activities;
- minimising the costs of compliance for those they regulate;
- improve confidence in compliance for those they regulate, by providing greater certainty; and
- encourage and promote compliance.

1.3 Regulators should ensure that their officers have the necessary knowledge and skills to support those they regulate, including having an understanding of those they regulate that enables them to choose proportionate and effective approaches.

1.4 Regulators should ensure that their officers understand the statutory principles of good regulation³ and of this Code, and how the regulator delivers its activities in accordance with them.

2. Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views

2.1 Regulators should have mechanisms in place to engage those they regulate, citizens and others to offer views and contribute to the development of their policies and service standards. Before changing policies, practices or service standards, regulators should consider the impact on business and engage with business representatives.

¹ The term 'regulatory activities' refers to the whole range of regulatory options and interventions available to regulators.

² The terms 'business or businesses' is used throughout this document to refer to businesses and other regulated entities.

³ The statutory principles of good regulation can be viewed in Part 2 (21) on page 12: http://www.legislation.gov.uk/ukpga/2006/51/pdfs/ukpga_20060051_en.pdf.

- 2.2 In responding to non-compliance that they identify, regulators should clearly explain what the non-compliant item or activity is, the advice being given, actions required or decisions taken, and the reasons for these. Regulators should provide an opportunity for dialogue in relation to the advice, requirements or decisions, with a view to ensuring that they are acting in a way that is proportionate and consistent.

This paragraph does not apply where the regulator can demonstrate that immediate enforcement action is required to prevent or respond to a serious breach or where providing such an opportunity would be likely to defeat the purpose of the proposed enforcement action.

- 2.3 Regulators should provide an impartial and clearly explained route to appeal against a regulatory decision or a failure to act in accordance with this Code. Individual officers of the regulator who took the decision or action against which the appeal is being made should not be involved in considering the appeal. This route to appeal should be publicised to those who are regulated.
- 2.4 Regulators should provide a timely explanation in writing of any right to representation or right to appeal. This explanation should be in plain language and include practical information on the process involved.
- 2.5 Regulators should make available to those they regulate, clearly explained complaints procedures, allowing them to easily make a complaint about the conduct of the regulator.
- 2.6 Regulators should have a range of mechanisms to enable and regularly invite, receive and take on board customer feedback, including, for example, through customer satisfaction surveys of those they regulate⁴.

3. Regulators should base their regulatory activities on risk

- 3.1 Regulators should take an evidence based approach to determining the priority risks in their area of responsibility, and should allocate resources where they would be most effective in addressing those priority risks.
- 3.2 Regulators should consider risk at every stage of their decision-making processes, including choosing the most appropriate type of intervention or way of working with those regulated; targeting checks on compliance; and when taking enforcement action.
- 3.3 Regulators designing a risk assessment framework⁵, for their own use or for use by others, should have mechanisms in place to consult on the design with those affected, and to review it regularly.
- 3.4 Regulators, in making their assessment of risk, should recognise the compliance record of those they regulate, including using earned recognition approaches and should consider all available and relevant data on compliance, including evidence of relevant external verification.
- 3.5 Regulators should review the effectiveness of their chosen regulatory activities in delivering the desired outcomes and make any necessary adjustments accordingly.

⁴ The Government will discuss with national regulators a common approach to surveys to support benchmarking of their performance.

⁵ The term 'risk assessment framework' encompasses any model, scheme, methodology or risk rating approach that is used to inform risk-based targeting of regulatory activities in relation to individual businesses or other regulated entities.

4. Regulators should share information about compliance and risk

- 4.1 Regulators should collectively follow the principle of "collect once, use many times" when requesting information from those they regulate.
- 4.2 When the law allows, regulators should agree secure mechanisms to share information with each other about businesses and other bodies they regulate, to help target resources and activities and minimise duplication.

5. Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply

- 5.1 Regulators should provide advice and guidance that is focused on assisting those they regulate to understand and meet their responsibilities. When providing advice and guidance, legal requirements should be distinguished from suggested good practice and the impact of the advice or guidance should be considered so that it does not impose unnecessary burdens in itself.
- 5.2 Regulators should publish guidance, and information in a clear, accessible, concise format, using media appropriate to the target audience and written in plain language for the audience.
- 5.3 Regulators should have mechanisms in place to consult those they regulate in relation to the guidance they produce to ensure that it meets their needs.
- 5.4 Regulators should seek to create an environment in which those they regulate have confidence in the advice they receive and feel able to seek advice without fear of triggering enforcement action.
- 5.5 In responding to requests for advice, a regulator's primary concerns should be to provide the advice necessary to support compliance, and to ensure that the advice can be relied on.
- 5.6 Regulators should have mechanisms to work collaboratively to assist those regulated by more than one regulator. Regulators should consider advice provided by other regulators and, where there is disagreement about the advice provided, this should be discussed with the other regulator to reach agreement.

6. Regulators should ensure that their approach to their regulatory activities is transparent

- 6.1 Regulators should publish a set of clear service standards, setting out what those they regulate should expect from them.
- 6.2 Regulators' published service standards should include clear information on:
 - a) how they communicate with those they regulate and how they can be contacted;
 - b) their approach to providing information, guidance and advice;
 - c) their approach to checks on compliance⁶, including details of the risk assessment framework used to target those checks as well as protocols for their conduct, clearly setting out what those they regulate should expect;

⁶ Including inspections, audit, monitoring and sampling visits, and test purchases.

- d) their enforcement policy, explaining how they respond to non-compliance;
 - e) their fees and charges, if any. This information should clearly explain the basis on which these are calculated, and should include an explanation of whether compliance will affect fees and charges; and
 - f) how to comment or complain about the service provided and routes to appeal.
- 6.3 Information published to meet the provisions of this Code should be easily accessible, including being available at a single point⁷ on the regulator's website that is clearly signposted, and it should be kept up to date.
- 6.4 Regulators should have mechanisms in place to ensure that their officers act in accordance with their published service standards, including their enforcement policy.
- 6.5 Regulators should publish, on a regular basis, details of their performance against their service standards, including feedback received from those they regulate, such as customer satisfaction surveys, and data relating to complaints about them and appeals against their decisions.

⁷ This requirement may be satisfied by providing a single web page that includes links to information published elsewhere.

Monitoring the effectiveness of the Regulators' Code

The Government is committed to making sure the Regulators' Code is effective. To make sure that the Code is being used effectively, we want businesses, regulated bodies and citizens to challenge regulators who they believe are not acting in accordance with their published policies and standards. It is in the wider public interest that regulators are transparent and proportionate in their approaches to regulation.

The Government will monitor published policies and standards of regulators subject to the Regulators' Code, and will challenge regulators where there is evidence that policies and standards are not in line with the Code or are not followed.

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This publication is also available on our website at:
<https://www.gov.uk/government/publications/regulators-code>

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South Ribble Borough Council

Policy on the installation of CCTV within licensed Hackney and Private Hire Vehicles

Created: 14/06/2023

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The purpose of CCTV

This policy relates to surveillance cameras, also known as Closed Circuit Television (CCTV), in Hackney and Private Hire Vehicles.

CCTV systems in Hackney Carriage Vehicles (HCVs) and Private Hire Vehicles (PHVs) are used to prevent and detect crime, reduce the fear of crime and enhance the health and safety of HCV, PHV drivers and passengers.

CCTV systems provide a safer environment for the benefit of the driver and passengers by:

- deterring and preventing the occurrence of crime
- reducing the fear of crime
- assisting the Police in investigating incidents of crime
- assisting insurance companies in investigating motor vehicle accident

This protection is intended to come from:

Visible surveillance cameras deterring individuals from committing a crime through the knowledge that evidence of it will be recorded.

Vehicle proprietors, who may also be the driver and/or operator, installing CCTV systems must fully comply and adhere with the requirements set out in this policy.

Proprietors of vehicles licensed by South Ribble Borough Council are permitted to voluntarily install CCTV, subject to adherence with this policy throughout the duration of the proprietor's licence.

Legality

Data recorded by any CCTV system must be handled in accordance with The Data Protection Act and UK GDPR.

Compliance

Licence holders must comply with any relevant guidance issued by;

- The Surveillance Camera Commissioner (SCC) - works to encourage compliance with the 'Surveillance camera code of practice'.
- The Information Commissioner's Office (ICO) is the regulatory body responsible for enforcing compliance with privacy and data protection legislation.

CCTV systems will be made available for inspection by licensing officers at any time to ensure they do not pose a risk to the safety of the passengers or the driver and are fitted safely and securely. It is contrary to the Motor Vehicle (Construction and Use) Regulations 1986, for equipment to obscure the driver's view of the road through the windscreen.

Installation

All equipment must be installed in by a council approved installer, the list of council approved installers can be found on the council's taxi licensing webpage. [Taxis - South Ribble Borough Council](#)

CCTV or any other image recording device may be used within a Hackney or Private Hire Vehicle subject to the Council being given prior notification of the installation.

The installed CCTV system must not weaken the structure or any component part of the vehicle or interfere with the integrity of the manufacturer's original equipment.

All equipment must be tampering proof protected from the elements.

It is contrary to the Motor Vehicle (Construction and Use) Regulations, 1986, for equipment to obscure the view of the road through the windscreen.

All equipment must be checked regularly and maintained to operational standards, including any repairs after damage.

Automotive Electromagnetic Compatibility requirements (EMC)

CCTV equipment must not interfere with any other safety, control, electrical, computer, navigation, satellite, or radio system in the vehicle.

Any electrical equipment such as an in-vehicle CCTV system fitted after the vehicle has been manufactured and registered, is deemed to be an Electronic Sub Assembly (ESA) under the European Community Automotive Electromagnetic Compatibility Directive and therefore must meet with requirements specified in that directive.

CCTV equipment should be e-marked or CE marked. If CE marked confirmation by the equipment manufacturer as being non-immunity related and suitable for use in motor vehicles is required.

Camera activation methods

Activation of the equipment may be via a number and combination of options, such as

- Door switches
- Drivers' panic button or in the case of incident/event recorder

Audio recording

There is a limited circumstance in which audio recording may be justified, subject to the sufficient safeguard below:

- Where recording is triggered due to a specific threat, e.g. a 'panic button' is utilised.

- Where this audio recording facility is utilised, a reset function must be installed which automatically disables audio recording and returns the system to normal default operation after a specified time period has elapsed.
- The time period that audio recording may be active should be the minimum possible and should be declared at the time of submission for approval of the equipment.
- In the limited circumstance where audio recording is justified, signs must make it very clear that audio recording is being or may be carried out.
- A panic button will be located in the passenger and driver compartments of the vehicle

Use of information recorded using CCTV

The data controller is responsible for complying with all relevant data protection legislation. The data controller is legally responsible for the use of all images including breaches of legislation.

ICO Registration as Data Controller

The ICO defines a 'Data Controller' as the individual or organisation which has ultimate responsibility for how personal data is collected and processed.

For the purpose of the installation and operation of in-vehicle CCTV, the Data Controller is the vehicle licence holder.

The licence holder must be registered with the Information Commissioner's Office and be able to evidence continuous registration throughout the lifetime of the licence.

Registration with the Information Commissioner's Office requires renewal on an annual basis and payment of the appropriate fee.

Sharing Data

The licence holder must comply with valid information requests, in consideration of The Data Protection Act (2018) and UK General Data Protection Regulations (UK GDPR).

Data must be shared securely, and requests must be fulfilled without charge.

Data must only be shared where there is a valid lawful reason, for example:

- a) where a crime report has been made involving the specific vehicle and the Police have formally requested that data.
- b) when a substantive complaint has been made to the licensing authority regarding a specific vehicle/driver and that complaint is evidenced in writing (and cannot be resolved in any other way).
- c) where a data request is received from an applicant e.g. police or social services, that has a legal basis to have access to the data requested to assist them in an investigation that involves a licensed vehicle or driver.
- d) a Subject Access Request (SAR) compliant with the UK GDPR. The DPA gives individuals the right to see information held about them, including CCTV images of them. More information on the Data Controller's responsibilities relating to SARs is available at

This list is not exhaustive; it is the responsibility of the Data Controller to consider the lawfulness of requests to share information in line with UK Data Protection Law.

Unlawful sharing data is a breach of UK Data Protection law and is considered a breach of policy.

Under the DPA, members of the public may also make a request for the disclosure of images, but only where they have been the subject of a recording.

This is known as a 'subject access request'. Such requests must only be accepted where they are in writing and include sufficient proofs of identity (which may include a photograph to confirm they are in fact the person in the recording).

Data Controllers are also entitled to charge a fee for a subject access request (currently a maximum of £10) as published in the ICO CCTV Code of Practice.

If the Data Controller fails to resolve the issue, the complainant may escalate this to the ICO at <https://ico.org.uk/make-a-complaint/>

Image security and Storage of Data

CCTV footage must be digitally encrypted and secure at all times, including protection against unauthorised or unlawful processing and against accidental loss, destruction, or damage.

The storage device must be encrypted, and image/audio files may only be downloaded by an authorised officer of the Council or a Police Constable.

The Council will be provided with de-encryption software at no cost to the Council, so footage can be accessed from authorised officers.

CCTV systems must be capable of storing image/audio files in a manner which prevents them being downloaded or viewed by the driver or any other person travelling in the vehicle.

The captured images must be protected using approved encryption software which is designed to guard against the compromise of the stored data, for example, in the event of the vehicle or equipment being stolen.

CCTV equipment selected for installation must include an automatic overwriting function, so that images are only retained within the installed system storage device for a maximum period of 31 days from the date of capture.

Data should be deleted or overwritten after 31 days, unless it has been legitimately shared, in which case it should be deleted when appropriate on the conclusion of the request. Where applicable, these provisions shall also apply to audio recordings.

It is recommended by the Information Commissioner's Office (ICO) that "data controllers" ensure any encryption software used meets or exceeds the current FIPS 140-2 standard or equivalent. System protection access codes will also be required to ensure permanent security

Signage and Advising of CCTV

Where CCTV is installed in a vehicle, there must be a minimum of 2 signs which are clearly visible to passengers, informing passengers that such a system is fitted.

This signage must be displayed so as to minimise obstruction but must be visible before and after entering the vehicle. At a minimum, this will be a double-sided sticker in the window on the left and right sides of the vehicle.

The signage must contain:

- The purpose for using the surveillance system, “in the interests of public safety, crime detection and crime prevention”.
- The name and contact number of the Data Controller, which should be the vehicle licence holder. South Ribble Borough Council is not the Data Controller.
- The Data Controller’s ICO Registration Number.

Signage will be available to purchase from Licensing Services. If signage is lost or removed, new signage must be installed prior to any licensable activities being undertaken.

The driver should verbally advise that CCTV is in operation where necessary e.g. where people may have visual impairments.

Vehicles with Tinted windows.

Where a new vehicle presented to officers, with tinted windows that do not comply with sections 6.6 and 7.5 of the Taxi licensing policy, if the vehicle is fitted with an approved CCTV system, then the vehicle may have windows that permit less than the 50% light transparency providing those windows have been installed by the manufacturer from new.

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As a driver of a private hire or hackney carriage vehicle, have you ever suffered any of the below in the last 3 years?	Yes	No
Aggressive or Threatening Behaviour	3	5
Customer Not Paying the Fare	3	5
Abusive / Racist customers / inappropriate conversations	2	5
Physical Assault		8
Disability Discrimination		8

If you have answered yes to any of the above, do you feel that CCTV within the vehicle would have assisted or prevented any of the above?	Yes	No
		5

CCTV Policy Q7. What implications are currently affecting you, choosing to install CCTV in your taxi/private hire vehicle ?	Yes	No
Cost of installation	5	3
Privacy/Data protection issues	4	4
Maintenance		5
Other	3	4

As a driver are you concerned about the financial burden from installing a CCTV system within your vehicle?	
Yes	4
No	4

If the council were able to assist in the cost of CCTV via the way of possible grants would you chose to install CCTV?	
Yes	1
No	7

Would you install CCTV in a new vehicle if this allowed for tinted windows?	
Yes	1
No	7

Do you agree drivers should have an option to fit either CCTV or transparent non tinted windows as a safeguarding measure?	
Yes	6
No	2

CCTV Policy**Q12. Do you agree or disagree that all licensed vehicles should have internal CCTV installed?****Agree****3****Disagree****5****Other comments**

Cameras should only be monitored if there are issues

I do not agree with mandating CCTV, it is not justified or pragmatic and a waste of money

Its beneficial for drivers who work night shifts

Its not needed

It should be up to the drivers own view

Tinted windows are allowed in other districts

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Appendix A – Impact Assessment (IA)

Name of the project, policy, service, or strategy:	Taxi CCTV Policy		
Responsible officer:	Chris Ward		
Service Lead:	Elizabeth Hindle		
Date of assessment:	16*/06/2023	Date of review:	

Introduction

Overview

What is an Impact Assessment?

The Impact Assessment is a tool to ensure that any policy, project, strategy, or service is assessed to consider any positive or negative impacts for all our residents with regards to equalities, health and sustainability. It is important that this is done in a timely manner and ideally it should precede the start of the project, policy or strategy concerned at Chorley Council or South Ribble Borough Council.

Who is the Impact Assessment for?

The responsibility of conducting the Impact Assessment is with the leading officer of the policy that is being assessed, with service leads responsible for the final sign off of the assessment. Once complete and signed off, the Impact Assessments are submitted to Performance and Partnerships, who are responsible for storing, monitoring, and ensuring the quality of the assessments. The assessment tool covers both Chorley and South Ribble Borough Council.

Why do we need to do Impact Assessments?

As Councils, we are committed as community leaders, service providers, and employers. Therefore, we will work to ensure that everybody is afforded equality of opportunity and good life chances. The Impact Assessment is a tool we use to ensure that we fulfil these commitments and thus meet our legal duties.

Instructions

Quick steps for completion

Follow the quick steps below when completing the Impact Assessment:

1. Sections: There are three sections to the Impact Assessment. These include:

- Equality impact: the impact on the nine equality strands, which include age, disability, sex, gender reassignment, race, religion, sexual orientation, pregnancy and maternity, and marriage and civil partnership. See the **Equality Framework**.
- Health and environmental impact: the impact on health and wellbeing as well as the environment.
- Reputational impact: the impact on the Councils' reputation and our ability to deliver our key priorities. Reference should be made to the Corporate Strategies.

2. Rating and evidence: Each section has a number of questions that should be given a rating and evidence given for why the rating has been selected. This allows us to quantify the impact. The rating key is outlined below:

Code	Description
P	Positive impact
N	Negative impact
NI	Neutral impact

3. Actions: Once a rating is given, actions should be identified to mitigate any negative impacts or maximise any positive impacts of the policy, project, or strategy that is being assessed.

4. Sign off: Once the assessment is completed, sign off is required by a Service Lead.

5. Submit: Once signed off, the Impact Assessment should be sent to the Performance and Partnerships Team, who will store the assessment securely and check for quality.

6. Follow up: Actions should be implemented and changes should be made to the policy, project, or strategy that has been assessed, with follow ups conducted annually to monitor progress.

Information and Support

Contact details

To submit your completed Impact Assessment or for guidance and support, please contact Performance and Partnerships at performance@chorley.gov.uk or performance@southribble.gov.uk

Equality Impact

Area for consideration	P	N	NI	Evidence	Further action required
What potential impact does this activity have upon:					
Those of different ages?			X		
Those with physical or mental disability?			X		
Those who have undergone or are undergoing gender reassignment?			X		
Those who are pregnant or are parents?			X		
Those of different races?			X		
Those of different religions or beliefs?			X		
Those of different sexes?			X		
Those of different sexual orientations?			X		
Those who are married or in a civil partnership?			X		
Socio-economic equality or social cohesion?			X		

Health, Social and Environmental Impact

Area for consideration	P	N	NI	Evidence	Further action required
What potential impact does this activity have upon:					
Enabling residents to start well (pre-birth to 19)?			X		
Enabling residents to live well (16 to 75 years)?	X				
Enabling residents to age well (over 65 years)?			X		
Natural environment?			X		
Air quality and pollution?			X		
Natural resources?			X		
Rurality?		X			

Strategic Impact

Area for consideration	P	N	NI	Evidence	Further action required
What potential impact does this activity make upon:					
The Councils' reputation?	X	X			
Our ability to deliver the Corporate Strategy? <i>(Please refer to the Strategic Objectives)</i>	X				

