

Report of	Meeting	Date
Director of Planning and Development	Licensing and Public Safety Committee	Tuesday, 6 September 2022

## CCTV Policy

Is this report confidential?	No
Is this decision key?	Not applicable
Savings or expenditure amounting to greater than £100,000	<b>Significant impact on 2 or more council wards</b>

## Purpose of the Report

1. To advise 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.

## Recommendations

Members are requested to:

2. Note the content of the report; and
3. Determine whether to proceed to consultation on the proposal to introduce CCTV in all taxis and private hire vehicles or;
4. Allow the status quo to remain which permits CCTV to be installed in a taxi or private hire vehicle at the driver's discretion subject to the system being approved by SRBC.
5. If members choose to go with the first option to consult the trade on the potential of a mandatory CCTV policy, then agree to receive a report advising of the results of that consultation.

## Other options considered and rejected

6. All options possible are address within the report body. Options to committee are either to mandate the use of CCTV or keep the current policy in place which allows approved CCTV at the driver's discretion.

## Corporate priorities

7. The report relates to the following corporate priorities: (Please bold one)

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

## Background to the report

8. The issue of mandatory CCTV has been on the agenda for some time.
9. Reports have been taken to committee in 2018 and 2020 to explore the option of mandating CCTV within our licenced 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 licenced by SRBC.
10. On the 20<sup>th</sup> February 2018 the Interim Licensing Manager presented a report that informed the Committee of the Council's current permissive approach towards the use of CCTV in licensed vehicles. The report also provided an update on the benefits and legal implications to the Council of adopting a mandatory approach to this issue.
11. On 12<sup>th</sup> September 2018 a further report of the Head of Licensing, again considered mandatory CCTV in taxis and private hire vehicles.
12. Recently officers have received a lot of requests both from the trade, trade representatives and members asking for the policy on CCTV to be reconsidered before members again, with the possibility of a mandatory policy investigated.
13. When seeking the development of a mandatory CCTV policy, 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.
  - Cost of implementation.
  - Legal Compliance, Specification and ICO recommendations.
  - Incentives and trade buy in.

## The Purpose of CCTV

14. 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.
15. 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
16. CCTV can act as a deterrent to committing an offence as people are more likely to police their own behaviour.
17. Where an offence has taken place the images/audio recording that CCTV systems capture can provide important evidence in a criminal investigation.
18. CCTV creates reassurance to customers that the taxi they have entered is a safe environment.

### **Current Policy Wording**

19. The current policy wording on CCTV in licensed vehicles:

*“CCTV The Council recommends the use of CCTV systems in vehicles for the safety of both the driver and passenger.*

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

*CCTV systems must comply with the current data protection requirements as directed by the Information Commissioner.*

*Where CCTV is installed in a vehicle, there must be a minimum of 2 signs which are clearly visible to passengers, advising them of the presence of CCTV.*

*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 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 CCTV system supplier shall furnish the Council with de-encryption software at no cost to the Council, along with a lifetime licence for the use of such software as may be required.”*

### **Department for Transport (DfT) Statutory Standards**

20. 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.
21. 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.

22. The DfT's view is that CCTV can improve safety for passengers and drivers and makes it easier for incidents to be investigated.

23. 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.

24. Within the statutory standards, the following is stated;

*In-vehicle visual and audio recording –*

*Government has acknowledged the potential risk to public safety when passengers travel in taxis and private hire vehicles.*

*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.*

*All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV. Taking into account potential privacy issues.*

*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.*

*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.*

*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.*

*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.*

*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.*

25. A copy of the statutory standards can be found attached to the report as appendix C, on pages 27, 38,39.

### **Proportionality and Evidence Base**

26. To mandate a policy on CCTV there needs to be a clear evidence base of an overwhelming need for CCTV within the area. Consideration should to be given to the imposition of a condition making CCTV compulsory in vehicles.

27. Clear ways to prove the need for CCTV in South Ribble would be through, Crime statistics, trade buy in, public buy in, number of public complaints received by the authority.

28. CCTV may act as a deterrent and would be used to protect the driver from attacks and making off without payment. Not all crimes are reported through to the police, so a consultation of the trade is vital.

29. A copy of the regulators code can be found attached to the report as appendix I.

30. The Regulators Code arguments:

*“Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities 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.*

*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.”*

31. Regulator's Code it makes reference to alternative solutions which could bring about the same aim – for example a new tinted window policy was introduced in the last 12 months as a protective measure.

32. The Regulators Code arguments seemed to include:

33. 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 entities, for example, by considering how they can best:
34. understand and minimise negative economic impacts of their regulatory activities;
35. minimising the costs of compliance for those they regulate;
36. Improve confidence in compliance for those they regulate, by providing greater certainty; and encourage and promote compliance.
37. 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.”

### **Cost of Implimentation**

38. 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.
39. Officers are currently researching the possibility of grants/funding towards the cost of each unit.
40. If this is not possible and a mandatory policy were to be implimented, the cost would fall to the owner of the licensed vehicles to pay for the CCTV instalation.
41. If any manditory policy were to be introduced, the council may be challenged legally, this would incure legal costs of defending a Judicial review against the policy.

### **Legal Compliance and Specification**

42. 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.
43. Many CCTV systems in taxis are active whenever the vehicle is running. The camera operate continuously, even when the driver is using the taxi privately.
44. 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 traveling on holiday.
45. 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 purposed.
46. The specification of the CCTV units would require meeting the requirements of the ICO. 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.*

47. 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.
48. 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.
49. 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.

### **Previous Case Example**

50. A case against Southampton City Council was taken by the Information Commissioner's Officer (reported in February 2013) following concerns they raised about the permanent audio recording that was in place in all vehicles that were fitted with the CCTV, this was a mandatory requirement.
51. An enforcement notice was issued to the Council for them to cease the activity of permanent voice recording, the Council appealed the notice and the specific issues in the appeal were:
  - *Whether the words recorded under the Council policy included "sensitive personal data"*
  - *Whether the Council's policy infringed Article 8 of the ECHR (European Court of Human Rights)*
  - *Whether the Commissioner was right to exercise his discretion to issue an enforcement notice.*

52. The Tribunal found in favour of the ICO.

53. It must be reiterated that the ICO did not have an issue with CCTV being installed in vehicles whether this be mandatory or voluntary - the issue was the specification and the permanent audio recording.

54. One of the latter paragraphs of the summary is of particular interest and states;

- *The tribunal wished to record that it was impressed by the police evidence in this case. It also appreciated the nature of the problem and the special vulnerability of some taxi passengers. "it may be that ...there is scope for a more targeted scheme involving audio-recording based on times of day, types of customers (for example children or vulnerable adults carried under contract between a taxi firm and the council), the use of panic buttons or a combination thereof, which strikes a better balance between the competing considerations and does not contravene the Data Protection and Human Rights Act".*

55. A full copy of the Southampton appeal can be found attached to the report as Appendix B.

### **Data Protection Impact Assessment (DPIA)**

56. 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.

57. This means that the authority is accountable under data protection legislation for the processing of passenger and driver personal data.

58. A DPIA is a mandatory requirement before any CCTV policy is implemented.

59. A DPIA helps you 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?

60. As a local authority, we need to demonstrate we have conducted A DPIA to the Information Commissioners Office before a mandatory CCTV policy is rolled out across South Ribble.

61. If members choose to continue with a consultation exercise, a DPIA will be drawn up, submitted to the ICO and presented as part of the consultation feedback report in December at the next committee meeting.

## **Incentives and Trade Buy In**

62. A proposed consultation exercise would give a clear answer if the trade feel a mandatory policy within South Ribble would be beneficial in safeguarding drivers.

63. Currently the policy states that drivers can have CCTV voluntarily in their vehicles providing that CCTV system installed meets a certain criteria.

64. The proposed consultation would ask drivers what would impact on them not choosing to have CCTV, and if the cost implications are causing them not to choose to install CCTV in their vehicles.

65. 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 if CCTV is fitted into Taxis and Private Hire vehicles.

66. A revision of the existing tinted windows policy could be something to explore further down the line, following an implementation of a mandatory CCTV policy.

67. Replacing tinted windows in vehicles can be a costly exercise and the use of CCTV to mitigate the use of tinted windows could be something committee may agree on further down the line.

68. 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.

69. Incidences of proprietors purchasing new vehicles and having to replace the rear passenger glass and rear screen are quite common, a mandatory CCTV policy may negate the need for a tinted windows policy.

## **Proposals**

70. Officers propose a report outlining and analysing consultation feedback, crime statistics and DPIA will be presented to members at the next date of the Licensing and Public Safety Committee in December 2022.

71. Outlining if there is a business case that CCTV as a mandatory requirement is necessary in South Ribble.

72. **Public Consultation** - Officers Propose to conduct a consultation exercise of the public 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.

73. **Trade Consultation** - Trade buy in is essential, a consultation exercise and engagement with the licensed trade and key stakeholders is proposed by officers,

which will give feedback to members if or not there is any appetite within the trade, if they feel CCTV would safeguard them as drivers, if it would work as a deterrent from abusive passenger and if CCTV is not wanted by the trade for what reason, cost, personal privacy etc.

74. **Crime statistics** - Officers have approached Lancashire Police constabulary for Crime statistics including drivers from South Ribble.
75. **Data Protection Impact Assessment (DPIA)** - will be conducted and sent to the ICO for feedback on a mandatory policy in South Ribble.

### **Climate change and air quality**

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

### **Equality and diversity**

77. South Ribble Borough Council is responsible for the licensing of hackney carriage and private hire vehicles, drivers and operators.
78. 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.

### **Risk**

79. This has been addressed in the body of the report.

### **Comments of the Statutory Finance Officer**

80. There are no direct financial implications of this report. Costs involved would be for the individuals and companies involved.

### **Comments of the Monitoring Officer**

81. The Legal Implications have been set out in the body of the report. The ICO has reported that they have seen an increase in case of CCTV in taxis and more particularly, taxi CCTV systems that continuously record. Capturing a person's movements on camera is accepted as particularly intrusive and as such subject to strict data protection rules and human rights law. The legislation referred to specifies that information captured and processed via CCTV must amongst other things be necessary and proportionate.
82. When a taxi or private hire driver is working, clearly the use of CCTV would be proportionate and arguably necessary in light of its purpose; to combat crime, to protect drivers and vulnerable passengers. However, when a taxi or private hire driver is off duty, the continued use of CCTV recording is likely to be unlawful, unfair and excessive in light of data protection and human rights legislation.
83. The ICO's view is that in most instances, continuous recording CCTV systems in taxis and private hire vehicles are unlawful. Licensed holders need to take steps to protect themselves from complaints of excessive use of CCTV systems in their licensed vehicles.

The use of CCTV in taxis must be limited to instances where it is necessary and proportionate. As such, CCTV should only be recording when taxi drivers are working and switched off when they are off duty.

84. Additionally, cases where CCTV systems in taxis are a mandatory requirement, the ICO's view is that the relevant data controller is the council not the individual vehicle licence holder. In other words, in most circumstances where a council instructs CCTV systems to be installed, the instructing council will be responsible for controlling and processing the data even though it is being recorded in a taxi or private hire vehicle.

**Background documents** There are no background papers to this report

## Appendices

Appendix A – LGA Guidance developing an approach to mandatory CCTV in taxis and PHV

Appendix B - Southampton Appeal

Appendix C - Statutory & Best Practice Guidance for taxi and PHV licensing authorities

Appendix D - ICO response Stat Guidance

Appendix E - Surveillance Camera Commissioner-taxi-consultation-response-DfT

Appendix F – DPIA Template

Appendix G - Example - data protection impact assessment Warrington

Appendix H - Surveillance Camera Code of Practice

Appendix I - CCTV Regulators Code

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