

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.

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

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.

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.

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.
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 available 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 incur 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)

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.
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.

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.

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.
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

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 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/ieListDocuments.aspx?CId=483&MIId=2531&Ver=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

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