

REPORT TO	ON
General Licensing Committee	12 September 2018



TITLE	REPORT OF
Consideration for Mandatory CCTV in taxis and private hire vehicles	Head of Licensing

Is this report confidential?	No
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1. PURPOSE OF THE REPORT

To advise Members of the process for introducing CCTV in taxis and private hire vehicles as a Mandatory Condition of licence

2 CORPORATE PRIORITIES

The report relates to the following corporate priorities:

Excellence and Financial Sustainability	x
Health and Wellbeing	x
Place	

Projects relating to People in the Corporate Plan:

People	
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3. RECOMMENDATIONS

Members are requested to:

3.1 note the content of the report; and

3.2 determine whether to proceed to consultation on the proposal to introduce CCTV in all taxis and private hire vehicles or

3.3 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.

4. BACKGROUND TO THE REPORT

4.1 South Ribble Borough Council's Taxi and private hire policy states:

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."

4.2 The issue of mandatory CCTV has been on the agenda for some time.

4.3 On the 20th 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.

4.4 Whilst the benefits of CCTV for safeguarding were known and Commissioner Ney in her review had been a strong advocate for the introduction of a mandatory approach nevertheless Committee noted it was a very resource intensive, technical and legally complex issue. At that time only nine licensing authorities had introduced such a policy.

4.5 The Committee was supportive in principle of the introduction of mandatory policy for the protection of both the public and the trade. However, it was mindful of the highlighted significant implications particularly if the Council pursued this alone. It was felt a Pan-Lancashire approach would not only benefit the Council but also the trade.

4.6 Committee accordingly resolved that "further development of the mandatory use of CCTV in vehicles licensed by this Council be supported and that this be progressed on a Pan-Lancashire basis."

4.7 A letter was accordingly then sent to all authorities in Lancashire on the 17th May 2018 seeking their views on "joining forces" on this issue. 5 responses were received attached as Appendices A-E, with only Lancaster showing an interest in combining forces. Rossendale Council responded with the offer of advice after successfully implementing a CCTV requirement which came into effect in January 2018.

4.8 A personal visit to Rossendale has been conducted which proved very useful to understand some of the pitfalls and challenges they faced. They can be broken down into the following criteria:

1. Proportionality and the need for an evidence base.
2. Cost of implementation.
3. Legal Compliance, Specification and ICO recommendations.

4. Incentives and trade buy in.

5. PROPORIONALITY AND EVIDENCE BASE

5.1 One of the arguments raised in Rossendale was based on the Regulator's Code and the general lack of evidence.

A useful statement issued by Rossendale was that in its consultation document which stated ;

Mandatory use of CCTV –Consideration to be given to the imposition of a condition making CCTV compulsory in vehicles. Such a condition would be applied in line with both the Information Commissioner's guidance and Data Protection Act 1998. Many councils are taking affirmative action to this end which provides invaluable evidence in investigations. It may act as a deterrent and would be used to protect the driver from attacks and making off without payment. Current policy does not prevent the use of CCTV and is at the discretion of the driver. The Government has recently indicated that it might introduce new measures that will ensure all councils make CCTV compulsory in taxis to protect children. The Government move follows a pilot scheme in a Rotherham, where from July 6 all taxi drivers have to have CCTV cameras and an audio recording device.

5.2 The Regulators Code arguments seemed to include:

“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.

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.

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.”

5.3 A full copy of the Regulators code is found at Appendix F

5.4 The trade opposition was headed off in Rossendale by producing evidence that the Council had undertaken extensive consultation and workshops, social media posts, letters sent to all Licence holders and neighbouring Authorities and trade bodies.

5.5 The argument regarding the evidence base was rebutted simply by referring to the number of complaints that Rossendale were receiving which was between 30 to 40 per month.

5.6 Taking the main reason for implementing such a condition officers have examined the crime data for the last 12 months in the South Ribble area looking at specific areas of crime categories including assaults, damage, and theft/fraud where taxis have been involved. The details are as follows:

- 10 making off without payment
- 2 criminal damage
- 1 sexual assault
- 1 stolen property (mobile phone)
- 1 public order (drunk, abusive customer)

The data searched covered the period of 1st August 2017-1st August 2018.

5.7 The crime category that stands out is the sexual assault. We asked for further information regarding this and discovered it was an alleged sexual assault on a female passenger, the offender being a hackney carriage driver from Preston, no plate number or vehicles details were noted by the complainant so the offence goes undetected. To reiterate, this matter had no connection to any South Ribble taxi driver.

5.8 We asked for further details around the making off without payment and again discovered that 6 of these incidents related to Preston taxis who had been dropping off in South Ribble and only 2 were relating South Ribble taxi drivers. The police on our behalf have searched crime categories across the South Ribble area, this is known as the incident location but it is perfectly feasible that South Ribble drivers could find themselves in neighbouring authorities and become a victim of crime but a request for this information was not made as it would have been an excessive drain on police time to research all areas of Lancashire.

5.9 South Ribble currently have 287 drivers so the crime statistics above demonstrate that 1.7% of these drivers have been a victim of crime (reported to the police)

5.10 The complaints or investigations received by SRBC are particularly low , certainly in the last 3 months there have been 3 complaints received by customers, this does not include low level compliance issues reported by others drivers such as plates being damaged or not visible on other vehicles. Out of the 3 complaints received where there is a witness or complainant 1 case will potentially be considered for prosecution but company records and witness statements have provided prima facia evidence that an offence has been committed, whilst CCTV would have been an additional bonus in this case it will be not be a detriment to the investigation that we do not have it.

5.11 The deterrent effect of CCTV is unquantifiable in its benefit but turning back to the Regulator's Code it makes reference to alternative solutions which could bring about the same aim – for example a tinted window policy was introduced in the last 12 months as a protective measure. This policy requirement in itself is expensive and burdensome for the Industry with an average cost of £1000 to change from factory fitted tinted windows to clear glass. Incidences of proprietors purchasing new vehicles and having to replace the rear passenger glass and rear screen are quite common, at least 3 or 4 per month that we get to know about. A recent article in an Industry periodical highlights the cost and benefits of such a policy and highlights 2 Local Authorities where they have reconsidered the position on tinted windows. Cardiff appear to moving to an “either or” scenario where a driver putting a

new vehicle can choose to install clear glass at reported costs of up to £2000 or install CCTV at much more modest price.

A copy of this article is attached as Appendix G.

6. COSTS OF IMPLEMENTATION

6.1 The cost of implementation will be mainly Officer time, turning to the Rossendale experience they estimate approximately £30,000 but that included a Licensing Consultant and the task was significantly greater in terms of vehicle numbers and drivers which ran into the 1000's. In addition to Officer time they incurred close to £10,000 in legal costs due to the fact they were defending a Judicial review against the policy, the parties agreed late in the day and the matter did not need to proceed further in the High Court but nevertheless significant legal costs were incurred by both sides.

6.2 The CCTV units that have been approved in Rossendale are relatively modest in price with an average price of £500 per unit which includes professional installation by an approved supplier.

7. LEGAL COMPLIANCE, SPECIFICATION AND ICO RECOMMENDATIONS

7.1 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.

7.2 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:

- 1. Whether the words recorded under the Council policy included "sensitive personal data"*
- 2. Whether the Council's policy infringed Article 8 of the ECHR (European Court of Human Rights)*
- 3. Whether the Commissioner was right to exercise his discretion to issue an enforcement notice.*

7.3 The Tribunal found in favour of the ICO and a summary of the case is found at Appendix H.

7.4 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. 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”.

7.5 The specification of the CCTV units approved by Rossendale meets the requirements of the ICO in that it has 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 meaning.

7.6 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.

8. INCENTIVES AND TRADE BUY IN

8.1 It is clear from the research that if the trade are incentivised either during the consultation or after it can be a great influence on the positivity of the consultation responses, incentives may include partial grants or match funding, or relaxation of existing policies the mischief of which may be better served by CCTV.

8.2 The current Licensing Budget at SRBC is modest and early calculations indicate that we may be falling short on covering the existing costs of the Licensing Service so any grant funding may need to be identified from alternative sources or revive Licensing Fees which largely undermines the incentive element. Revision of existing Policies or an “either or approach” may be something to explore but may be met with vociferous objection from those owners/drivers who have recently been put to significant cost to replace tinted windows with clear glass.

9. CONCLUSION

9.1 The initial brief by the GLC was to explore the feasibility of a Pan Lancashire agreement to progress CCTV as a mandatory condition.

9.2 It would seem that the case for CCTV should be one that stands scrutiny on its own merits so it would seem that each Authority area will have different reasons and grounds for implementing CCTV. As such the importance of a Pan Lancashire agreement seems less important.

9.3 After consulting with all Authorities in Lancashire it seems only Lancaster has an appetite to join forces so securing any such agreement seems unlikely at this stage.

9.4 The specification of the CCTV unit is easily achievable and approved installers will be available in the immediate area.

9.5 There is little by way of a business case that CCTV as a mandatory requirement is necessary, the crime statistics on drivers are very low (1.7%) and the number of complaints are also very low in number.

9.6 The suggested argument for CCTV perhaps needs to focus on the deterrent effect and would possibly only be achievable with Industry buy-in which would hopefully reduce the amount of opposition should a decision be made to consult on the matter.

10. LEGAL IMPLICATIONS

PLEASE SEE MONITORING OFFICER COMMENTS

11. COMMENTS OF THE STATUTORY FINANCE OFFICER

The cost of the CCTV units would be borne by the licensed drivers and therefore the cost implications for the Council, as set out in section 6 above, would be staffing costs which are already budgeted. There is currently no provision in the Licensing revenue budget for any external consultancy or legal costs. Licencing fees and charges are calculated on a cost recovery basis and reviewed on an annual basis.

12. COMMENTS OF THE MONITORING OFFICER

As ever if we are proposing to make an important policy change and impose an additional burden on our licensed drivers then we must carry out an extensive consultation exercise first. We must be convinced that such changes are strictly necessary. We must act reasonably throughout.

13. OTHER IMPLICATIONS:

▶ HR & Organisational Development	None
▶ ICT / Technology	None
▶ Property & Asset Management	None
▶ Risk	Please refer to the legal risks identified above. None
▶ Equality & Diversity	

14. APPENDICES

Appendix A- E mail responses from neighbouring authorities

Appendix F- Regulators Code
Appendix G- Private Hire Monthly Article
Appendix H-Summary of the Southampton Judgment

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