

## **Regulatory Committee**

# Tuesday 29 June 2021 at 7.30pm (after the meeting of the Licensing Committee)

### Council Chamber Runnymede Civic Centre, Addlestone

### **Members of the Committee**

Councillors J Wilson (Chairman), D Cotty (Vice-Chairman), M Adams, T Burton, and M Harnden.

In accordance with Standing Order 29.2 any non-member of the Committee who is considering attending the meeting should first request the permission of the Chairman.

## AGENDA

#### Notes:

- 1) The following Measures to comply with current Covid guidelines are in place:
  - restricting the number of people that can be in the Council Chamber to 24 including Councillors, Officers, and members of the public
  - temperature check via the undercroft for Members/Officers and Main Reception for the public
  - NHS track and trace register, app scan is next to the temperature check
  - masks to be worn when moving around the offices
  - masks can be kept on whilst sitting in the Council Chamber if individuals wish
  - use of hand sanitisers positioned outside and inside the Council Chamber
  - increased ventilation inside the Council Chamber
- 2) Any report on the Agenda involving confidential information (as defined by section 100A(3) of the Local Government Act 1972) must be discussed in private. Any report involving exempt information (as defined by section 100I of the Local Government Act 1972), whether it appears in Part 1 or Part 2 below, may be discussed in private but only if the Committee so resolves.
- 3) The relevant 'background papers' are listed after each report in Part 1. Enquiries about any of the Agenda reports and background papers should be directed in the first instance to

Miss Clare Pinnock, Democratic Services Section, Law and Governance Business Centre, Runnymede Civic Centre, Station Road, Addlestone (Tel: Direct Line: 01932 425627). (Email: <u>clare.pinnock@runnymede.gov.uk</u>).

- Agendas and Minutes are available on a subscription basis. For details, please ring Mr B A Fleckney on 01932 425620. Agendas and Minutes for all the Council's Committees may also be viewed on <u>www.runnymede.gov.uk</u>.
- 5) In the unlikely event of an alarm sounding, members of the public should leave the building immediately, either using the staircase leading from the public gallery or following other instructions as appropriate.

#### 6) Filming, Audio-Recording, Photography, Tweeting and Blogging of Meetings

Members of the public are permitted to film, audio record, take photographs or make use of social media (tweet/blog) at Council and Committee meetings provided that this does not disturb the business of the meeting. If you wish to film a particular meeting, please liaise with the Council Officer listed on the front of the Agenda prior to the start of the meeting so that the Chairman is aware and those attending the meeting can be made aware of any filming taking place.

Filming should be limited to the formal meeting area and <u>not extend to those in the public</u> <u>seating area</u>.

The Chairman will make the final decision on all matters of dispute in regard to the use of social media audio-recording, photography, and filming in the Committee meeting.

#### LIST OF MATTERS FOR CONSIDERATION

#### <u>PART I</u>

#### Matters in respect of which reports have been made available for public inspection

		<u>PAGE</u>
1.	FIRE PRECAUTIONS	4
2.	NOTIFICATION OF CHANGES TO COMMITTEE MEMBERSHIP	4
3.	MINUTES	4
4.	APOLOGIES FOR ABSENCE	4
5.	DECLARATIONS OF INTEREST	4
6.	2021 ANNUAL REPORT ON HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING	4
7.	STATUTORY GUIDANCE IN RELATION TO TAXI AND PRIVATE HIRE VEHICLE STANDARDS	15
8.	EXCLUSION OF PRESS AND PUBLIC	86

#### <u>PART II</u>

## Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.

a) <u>Exempt Information</u>

(No reports to be considered under this heading)

b) Confidential Information

(No reports to be considered under this heading)

#### 1. Fire Precautions

#### 2. Notification of Changes to Committee Membership

#### 3. Minutes

To confirm and sign as a correct record, the Minutes of the meeting held on 17 March 2021, which were circulated to all Members in April 2021.

#### 4. Apologies for Absence

#### 5. Declarations of Interest

If Members have an interest in an item please record the interest on the form circulated with this Agenda and hand it to the Legal Representative or Democratic Services Officer at the start of the meeting. A supply of the form will also be available from the Democratic Services Officer at meetings.

Members are advised to contact the Council's Legal section prior to the meeting if they wish to seek advice on a potential interest.

Members are reminded that a registrable interest includes their appointment by the Council as the Council's representative to an outside body. Membership of an outside body in their private capacity as a trustee, committee member or in another position of influence thereon should also be declared. Any directorship whether paid or unpaid should be regarded as a disclosable pecuniary interest, and declared.

Members who have previously declared interests which are recorded in the Minutes to be considered at this meeting need not repeat the declaration when attending the meeting. Members need take no further action unless the item in which they have an interest becomes the subject of debate, in which event the Member must leave the room if the interest is a disclosable pecuniary interest or other registrable interest and/or the interest could reasonably be regarded as so significant as to prejudice the Member's judgement of the public interest.

## 6. 2021 ANNUAL REPORT ON HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING (ENVIRONMENTAL SERVICES, ROBERT SMITH)

#### Synopsis of report:

To present the 2021 Annual Report on matters relating to Hackney Carriage and Private Hire Licensing and its operation within Runnymede.

Recommendation(s):

None. This report is for information only.

#### 1. **Context of report**

- 1.1 The Licensing Section is responsible for administering and enforcing the Hackney Carriage (HC) and Private Hire (PH) licensing regime in Runnymede. This report is to enable the Committee to be appraised of developments over the past year and gives an overview of the work undertaken by the Licensing Section.
- 1.2 The annual report includes statistical data from the Council's licensing records. In order to have some commonality with other reports, unless otherwise stated, the data covers the period 1 April 2020 to 31 March 2021.

#### 2. Report

- 2.1 Detail is included in relation to the following items:
  - Statistics
  - Suspensions / refusals
  - Knowledge test
  - Communications
  - Enforcement and complaints
  - Fees and fares
  - New legislation and guidance
  - Conditions and requirements
  - Future Developments
  - Staffing arrangements

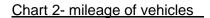
#### Statistics

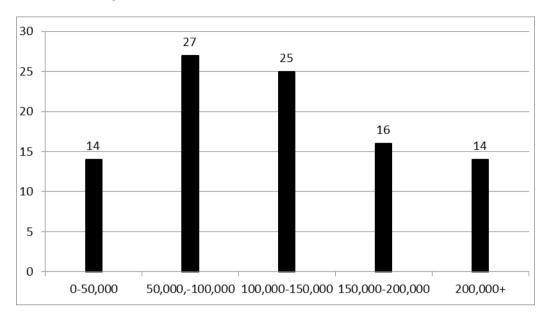
2.2 The following table details statistical information on the number of vehicles and drivers licensed as of 31 March 2021; the previous four years have been shown for comparison in chart 1 below.

	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
Hackney	154	147	144	123	105	90
Drivers						
Hackney	143	130	120	104	75	61
Carriages						
Private Hire	80	81	72	61	51	47
Drivers						
Private Hire	86	78	69	60	51	35
Vehicles						
Private Hire	23	22	23	21	23	24
Operators						

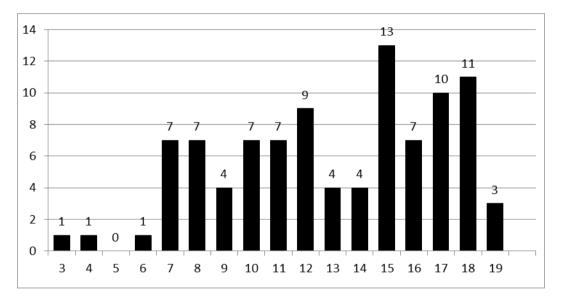
Chart 1 – statistics

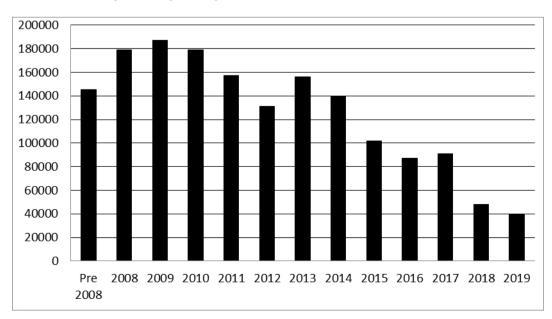
- 2.3 Members will note the number of licensed drivers and vehicles has declined over the past 5 years and more recently the speed of the decline has increased since 2018. The changes in regulations, online app booking systems and the influx of out of area drivers and vehicles into Runnymede have all contributed to this decline.
- 2.4 With fewer new applications and renewals of existing licences this of course means a much-reduced income from the fees charged. To give Members an idea of just how much less income we are getting from taxi licensing we can provide an approximation based on the chart above.
- 2.5 We have 97 fewer drivers and 133 fewer vehicles as of 31 March 2021 than we did on 1 March 2016. In terms of income from fees, this equates to £13,350 less from drivers and £34,250 less from vehicles, a total of £47,600 per year (all figures are approximate).
- 2.6 Members will recall that Runnymede amended the vehicle age policy in 2014 by introducing 'no age limit' along with more stringent standards concerning the condition of the vehicle. The charts below are produced to show age and mileage statistics of taxis and private hire vehicles in Runnymede as at 31 March 2021.



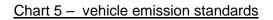


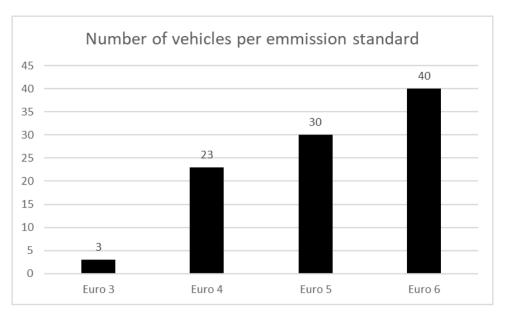
<u>Chart 3 - ages of vehicles</u> (year of registration 2003 to 2019 is shown at the bottom as 3 to 19 and the number of vehicles scale is on the left).











2.7 In light of the challenge to reduce vehicle emissions and the introduction of the Ultra-Low Emission Zone (ULEZ) in London and its proposed introduction elsewhere, chart 5, above, has been produced to demonstrate the number of HC and PH vehicles licensed in Runnymede and those meeting the various Euro engine emission standards.

#### Suspensions refusals and revocations

2.8 The Licensing Section assists drivers in keeping track of their documentation by sending them a reminder letter or email 6 to 8 weeks prior to the expiry of their medical, DBS (Disclosure and Barring Service) check, DVLA driving licence check and HC/PH drivers and vehicle licence renewals. Councils are not obliged to remind drivers of these dates but it is a routine, well-practiced procedure, which assists in the smooth running of the licensing regime. This is often followed by a phone call or text to ensure drivers are taking steps to ensure they supply documentation and applications on time.

#### Suspensions, Refusals and Revocations

2.9 There were no suspensions, refusals or revocations in this year.

#### Knowledge test

- 2.10 All new driver applicants are required to pass the Runnymede hackney carriage or private hire knowledge test and all operators are required to pass a test on the conditions and requirements of operators.
- 2.11 The knowledge test is carried out once a month and the fee is payable for the first test and any subsequent resits. The test is in written form and a maximum of six applicants may take the test at the same time. The tests themselves are regularly revised and alternate test papers are used so that it is not the same test every time.
- 2.12 The current test was brought into operation in January 2014. The test comprises three parts, part 1- conditions and regulations which also includes a numeracy test, part 2 locations and part 3 a route test for hackneys only.

- 2.13 To maintain relevance, the knowledge test's content is updated at regular intervals to take into account new legislation or conditions, as well as new developments within the borough.
- 2.14 We do review the knowledge test occasionally to ensure it is at the right level and to demonstrate applicants have sufficient local knowledge and that it has not become a barrier preventing new driver applications.
- 2.15 All those who apply to do the knowledge test receive a study guide to assist them in preparing for the locations test (part 2). This part comprises 60 questions which ask for the street name and town. In revising for this location test applicants are given a study guide. In demonstrating they know where these key locations are, we can be confident that the driver has attained the required level of knowledge Runnymede.

#### **Communications**

- 2.16 Over the past year we have continued to communicate with the trade as much as possible. Our methods and further improvements aimed at reducing costs are described below.
- 2.17 The Council's web site has a page specifically for HC and PH news; this is regularly updated with events, latest developments and new legislation. All drivers have been made aware of its existence and are encouraged to view it.
- 2.18 Drivers have been written to and asked to supply us with their e-mail address, if they have one. Therefore, it is now possible to send group or individual e-mails to all drivers and all operators. We continue to encourage drivers to supply their up to date e-mail addresses on application forms.
- 2.19 As referred to in section 2.4 approximately 37 reminder emails a month are sent to drivers with the necessary information for licence renewal, medical checks, DBS checks and vehicle Mot's etc. We also use texts for general messages. Texting costs approximately 0.1p per text and we can send a text to individuals or groups. This is most useful for making drivers aware of urgent matters as a matter of course and can be used to send an additional reminder if necessary. The use of email notification also keeps costs down, which is reflected in the licensing fees.
- 2.20 Forums where drivers and operators can exchange views with the Licensing Section were re-introduced in October 2013. These are held three times a year (note-forums have been suspended since March 2020 due to the current pandemic). The next forum will be held when guidance relating to social distancing permits.

#### The effect of the Covid pandemic

- 2.21 The hackney carriage and private hire trade throughout the country has been particularly hard hit by Covid restrictions, lockdowns, self-isolation and shielding. While a small number of drivers have decided to retire early from the trade over the last year, as can be seen on chart 1 above, numbers continue to decrease in line with previous years but it is not yet known if this was due to Covid or whether it continued to decrease due to the lack of custom and competition from vehicles licenced elsewhere as in previous years.
- 2.22 Over the period of this report the licensing team have had to change their working practices to allow for some flexibility in the licensing regime; the aim being to help drivers and operators stay in business. Our view was very much a case of where it is 'beyond the driver's control' we would consider ways to help drivers stay on the road and we took a fair and sensible approach to matters affecting the trade. Extraordinary times demand extraordinary solutions.

- 2.23 The flexibility extended to allowing the following:
  - Allowing those drivers who cannot get a medical done by their Doctor further time to obtain it in accordance with Government guidance on driver medicals. Drivers must sign a disclaimer stating they have no reason to believe their medical condition has changed. We have 23 drivers with out of date medicals, most have told us they are not working. This situation is now being resolved as GPs become available to carry out the medicals.
  - 2. DBS checks are normally carried out at the Civic Offices and for some drivers who have self-isolated they are of course unable to attend. We again ask for a disclaimer stating they have had no convictions etc since their last check. We have 11 drivers with out of date DBS's they have all told us they are not working and may not return.
  - 3. We allowed licences on hold for those who cannot work or have no work. In total, 22 drivers and 32 vehicle licences were put on hold for a 3-month period March to June 2020. This 3 months was/is given back to them via a temporary licence at the end of their current licensing period.
  - 4. We are allowing payment of fees in parts, such as quarterly or 6 monthly payments, for those who are working but short of cash. Only four have part paid.
- 2.24 The Council also assisted by way of Covid related Grants which were paid to 68 drivers to assist them during the pandemic. Further details will be made available at the meeting.

#### Enforcement and complaints

2.25 The Licensing Section has not been involved in enforcement activity throughout the last year as there was little evidence of drivers having any work and no complaints were registered.

#### Licensing Fees and Fares

- 2.26 Fees and hackney carriage fares are reviewed annually in November of each year. No changes were made to fees for the period 2021/2021. The fees are shown at Appendix 'A'.
- 2.27 Hackney carriage fares were last increased in June 2014, the fare card is shown at Appendix 'B'. A consultation exercise took place in summer 2018 to ascertain views regarding a change to fares. The trade's view was overwhelmingly that fares remain as they are and to date this view has not altered. It is proposed that a further consultation take place in 2021/2022.
- 2.28 The fee setting process includes a comprehensive breakdown of fees for each licensing process. In setting the fees we have been transparent in our approach and made all reports and details of the fee setting process available.
- 2.29 Fee setting will take place again later this year; a report will be presented to this Committee in November 2021.
- 2.30 Over this last few years there has been a reduction in the number of drivers and vehicles which has had a significant impact on the income from taxi licensing (as described in 2.2 2.5).

New and proposed Legislation and Guidance

2.31 Members will be aware of the introduction of Statutory Taxi and Private Hire Vehicle Standards published on 21 July 2020, which is the subject of the next report on this agenda.

#### Conditions and requirements

- 2.32 Runnymede's existing hackney carriage and private hire licensing policy was adopted by the Council on 2 March 2020. To date, the policy has proved itself to be of great assistance as it has eliminated many of the grey areas around taxi and private hire licensing. This policy is valid until 31 March 2023. A report detailing a revised policy will be presented to this Committee in the middle of 2022 for consideration and approval for consultation. Thereafter it will be brought back to this Committee late in 2022 or early 2023 for further consideration and amendments as necessary prior to adoption on 1 April 2023. However, should the Committee adopt a longer period for the policy in the next report, the above timetable would change.
- 2.33 In April 2018, the online training program concerning of the mandatory training for drivers and operators on safeguarding and recognising child sexual exploitation was made available to the trade. This is a Surrey wide initiative supported by all Surrey Districts and Councils including Surrey County Council. It is offered as free training to existing drivers and operators and it is now part of the new licence application process, new applicants must pay £18 to take the training.
- 2.34 As of 31 March 2021, all drivers and operators who are licensed in Runnymede had completed the training.
- 2.35 Drivers must now, as per our policy, subscribe to the Disclosure and Barring Service (DBS) update service (at a cost of £13 a year). This allows licensing staff to simply check the status of a driver's DBS online, with their written permission. This makes for a simpler cost saving service with little inconvenience for the driver.
- 2.36 The number of drivers who had informed us they were subscribed to this service as of April 2021 was 73. As drivers' 3 yearly DBS checks become due those not already on the update service will then have to subscribe.
- 2.37 One of the benefits enjoyed by the trade in Runnymede is that we no longer have an age limit on vehicles, this of course allows those older good condition vehicles to be licensed. However, we do expect vehicles to be in a good safe condition and have a licensing condition in place where if a vehicle has MOT advisories on any tyre. brake, steering, or suspension matters that vehicle will not be licensed.
- 2.38 It is a regular occurrence to see vehicles with a MOT where one or more of the above are prevalent, there is no correlation between these and vehicle ages. It is particularly disappointing to see vehicles with Mot failures or advisory notices for tyres.

#### Hackney Carriage Ranks

2.39 To date, the following ranks have been appointed for hackney carriages within the Borough of Runnymede: -

Virginia Water Station Approach 2 - (adjoining Public Car Park) Egham Pailway Station Virginia Water Station6 - Egham StationEgham Railway Station2 - Chertsey Station car parkChortsey Railway Station2 - Addlestone Station car park Thorpe Park

- 2 Addlestone Station car park
  - 3 Car park

In addition to these ranks, designated drop of and pick up points are available at some supermarkets and the Addlestone One development.

- 2.40 Previous attempts to introduce new ranks in Egham have not been successful due to lack of support from local business, the public and the trade. We are aware of the need for additional ranks, particularly in Egham town centre and we have proposed that new ranks be included in any development of Egham town centre although to date we have not had any notification of any new ranks. This has been followed up and a verbal update will be provided at the meeting.
- 2.41 The ranks at railway stations are situated on land belonging to South Western Railway (SWR) who charge for their use. The Council has a contract with SWR which allows the Council to rent the ranks at a very favourable rate. We are fortunate in that the fees charged for these ranks are substantially lower than elsewhere only one other station in the entire SWR region has a similar arrangement.
- 2.42 At all other railway stations bar 2, SWR have contracts with individual hackney carriage proprietors and charge each of them between £600 and £1,200 per year for use of the ranks at one station.
- 2.43 SWR charges per calendar year. In the calendar year 2020 Runnymede Council was charged £5,000 (exc Vat) in total for all ten station car park bays, this amounts to £500 per bay. SWR have informed us that there will be no change to the annual rent for 2021.
- 2.44 For individual hackney carriage proprietors in Runnymede this equates to £66 for each vehicle per year in 2020 and increases to £82 in 2021 due to there being fewer vehicles. This may be recovered through the hackney carriage vehicle licence fee and accounts for the difference in fees between hackney carriage and private hire vehicles.

#### Staffing of the Licensing Section

- 2.45 The Section's current staffing consists of: -
  - One full time Senior Licensing Officer who also has responsibility for applications in regard to the Licensing Act 2003, the Gambling Act 2005, and Scrap Metal Dealers Act 2013.
  - One part time post shared by two part time dedicated taxi Licensing Officers who between them work 24.5 hours a week.
  - One full time Licensing Administrator who has responsibility for administering Taxi licensing, the Licensing Act 2003, the Gambling Act 2005, and Scrap Metal Dealers Act 2013.
- 2.46 The administrative staffing component for all licensing is one full time administration post: in comparison. This is a key position in licensing and one that requires staff with considerable knowledge, skills and ability.
- 2.47 The Taxi Licensing Officer part time post of 24.5 hours a week has as mentioned above in the past been a shared post with two officers working splitting the time equally between them.

#### 3. Conclusions

3.1 Taxi licensing is controlled and administered by a very small section who are able to provide a good service. We recognise the need to work with the trade and gone to some length to provide as much help and assistance as we can over the last year and will continue to do within the boundaries of our policy.

#### (For Information)

#### Background papers

Runnymede Hackney Carriage and Private Hire Licensing Policy https://www.runnymede.gov.uk/article/14529/Hackney-Carriage-and-Private-Hire Licensing-Policy-Fees-fares-DBS-checks

Statutory Taxi and Private Hire Vehicle Standards

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\_d ata/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf



#### Hackney Carriage/Private Hire fees - with effect from 1 April 2021

1
£ 271.00 £ 236.00
£ 142.00
£ 98.00
£ 103.00
£ 39.00
£ 445.00 £ 445.00
£ 388.00 £ 388.00
£ 525.00 £ 547.00 £ 630.00 £ 741.00 £ 853.00 £ 964.00 £ 1075.00
£ 50.00 £ 72.00 £ 55.00 £ 55.00 £ 25.00 £ 67.50

Any change of vehicle during the licensing period will be charged at the appropriate vehicle licence rate.

Please note - Credit will not be given for any unexpired period of vehicle or drivers licences if the licence is surrendered.



#### Appendix 'B'

#### TABLE OF HACKNEY CARRIAGE FARES (With effect 3 June 2014) IMPORTANT NOTE : The tariff in place at the time the hiring commences shall be the tariff for the whole of the hiring; taximeters are not to be calibrated to change rate mid-hire.

Rate 1	Daytime Rate - hiring between 6 am & 10 pm (except where rates 2, 3,
	or 4 apply)
1 <sup>st</sup> mile set charge £3.80	Any distance not exceeding 1609m (1 mile approx.)
2 <sup>nd</sup> mile £2.70 pro rata	If the distance exceeds 1609m but not 3217m, for each subsequent
Then £2.20 per mile	119m (130yds) or part thereof.
(20p increments)	If the distance exceeds 3217m (approx. 2 miles) for each subsequent
	146m (159yds) or part thereof.
Waiting Time 20p	For each period of <b>35.3</b> seconds or part thereof
Rate 2	Tor each period of <b>30.3</b> seconds of part thereof
Nate 2	Sunday & Late Evening - hiring on Sundays or between 10 pm and
1.25 x Rate 1	midnight from Mondays to Saturdays inclusive (except where rates 3
1.25 X Rate 1	
Satabarga min CA 75	or 4 apply)
Set charge min. £4.75	Any distance not exceeding 1609m (1 mile approx.).
2 <sup>nd</sup> mile £3.37 pro rata	If the distance exceeds 1609m but not 3217m, for each subsequent
Then £2.75 per mile	95m (103yds) or part thereof.
(20p increments)	If the distance exceeds 3217m (approx. 2 miles) for each subsequent
14/ 1/1 7/1 00	117m (127yds) or part thereof.
Waiting Time 20p	For each period of <b>28.2</b> seconds or part thereof
Rate 3	
	Night & Holiday - hiring between midnight and 6 am and Bank
1.5 x Rate 1	Holidays.
Set charge min. £5.70	Also between 6 pm and midnight on Christmas Eve and New Years
	Eve (except where rate 4 applies).
2 <sup>nd</sup> mile £4.05 pro rata	If the distance exceeds 1609m but not 3217m, for each subsequent
Then £3.30 per mile	79m (86yds) or part thereof.
(20p increments)	If the distance exceeds 3217m (approx. 2 miles) for each subsequent
	98m (107yds) or part thereof.
Waiting Time <b>20p</b>	For each period of 23.5 seconds or part thereof
Rate 4	
	Double Time Rate – hiring on Christmas Day, Boxing Day & New
2 x Rate 1	Years Day (double rate 1) from:- Midnight on 24 Dec to midnight
Set charge min. £7.60	on 26 Dec and Midnight on 31 Dec to midnight on 1 <sup>st</sup> Jan.
2 <sup>nd</sup> mile £5.40 pro rata	If the distance exceeds 1609m but not 3217m, for each subsequent
Then £4.40 per mile	119m (130yds) or part thereof.
(40p increments)	If the distance exceeds 3217m (approx. 2 miles) for each subsequent
	146m (159yds) or part thereof.
Waiting Time 40p	For each period of 35.3 seconds or part thereof
Supplementary Charges	
30p	For each person in excess of two
30p	For each package, or article of luggage conveyed outside the
	passenger compartment.
30p	For each animal
Free of Charge	For each assistance dog (e.g. guide dogs & hearing dogs)
£50.00	Discretionary Soiling Charge

Important : If the journey takes the cab outside the Borough of Runnymede, the driver MUST still charge in accordance with the above scales unless he or she has agreed otherwise with the hirer before the journey has started.

Runnymede Borough Council, Civic Centre, Station Road, Addlestone, Surrey KT15 2AH Tel. No. 01932 425711 / Fax No. 01932 838384 / Email: <u>licensing@runnymede.gov.uk</u>

7. Statutory Guidance in relation to Taxi and Private Hire Vehicle Standards (Environmental Services, Robert Smith)

#### Synopsis of report:

To inform Members of the results of the consultation on Statutory Taxi and Private Hire Vehicle Standards.

#### Recommendation(s):

- i) Members note the results of the consultation on the Statutory Taxi and Private Hire Vehicle Standards; and
- ii) the recommended changes to the Hackney Carriage and Private Hire Policy; points 1, 2, 3, 4, 5, 7, 8 and 9 be approved; and
- iii) Members consider whether to adopt points 6 and 10 as set out in the report

#### 1. Context of report

- 1.1 On 21 July 2020, the Department for Transport issued Statutory Taxi & Private Hire Vehicle Standards, referred to in this report as the 'Guidance'.
- 1.2 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 standards in this document take precedence.
- 1.3 Under the Policing and Crime Act 2017 the Secretary of State for Transport is enabled to issue statutory guidance on the exercising of taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services.
- 1.4 The Guidance is the result of extensive consultation with the police, the trade, the Institute of Licensing and others and sets out the approach that Licensing Authorities must adopt when carrying out their functions.
- 1.5 This authority has already previously implemented several of the recommendations on its own volition, but the guidance provides the opportunity to consider further changes.
- 1.6 The introduction to the Standards states that the Department for Transport *"expects these recommendations to be implemented unless there is a compelling local reason not to."*

#### 2. Report

- 2.1 The areas considered within the 'Guidance' cover a wide range of subjects. These are not copied in full within this report, but Members can refer to them in the report which was presented to this Committee on 17 March 2021
- 2.2 In many areas of the 'Guidance' Runnymede had already met the recommendations. For those areas which did not, a consultation took place over the period 29 March 2021 to 16 May 2021. All Runnymede Councillors have already been made aware of the consultation as have all drivers and operators.

- 2.3 The consultation has also been circulated to a wider audience via the Council's website, social media and by making residents' groups, Royal Holloway University, the Police, and other interested parties aware of its existence.
- 2.4 The consultation questions and responses are copied below along with comments made by the Senior Licensing Officer.

#### 1. Licensing polices

- 2.5 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' and review this every 5 years.
- 2.6 Runnymede's current position is that a full and comprehensive policy was introduced in 2016. This meets the standard required and is reviewed every 3 years.
- 2.7 Consult on amending policy to change the requirement for reviewing the policy to every 5 years.

2.8	Do you agree or disagree with this proposal	Agree	18
		Disagree	7
		Don't know	4
	Persender commente		

#### Responder comments

• It would make more financial and current statutory sense.

#### Officer comments and Recommendation

2.9 This would bring the policy into line with the Licensing Policy although it can still be updated when required throughout its lifespan as required and can be subject to interim reviews where necessary. It is recommended that the policy now be reviewed every 5 years. The next review would be in 2025.

#### 2. Licensee self-reporting

- 2.10 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.
- 2.11 Runnymede's current position is that the time allowed for licence holders to inform the issuing authority is five working days of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the Council within 3 working days of their arrest for any matter (whether subsequently charged or not).
- 2.12 Consult on amending policy to change the requirement to notify to 48hrs.

2.13	Do you agree or disagree with this proposal	Agree	18
		Disagree	7
		Don't know	8
	Responder comments		

nil

#### **Officer comments and Recommendation**

2.14 Officers believe informing the licensing authority promptly and within 48 hours is realistic and practical, it is 2 whole days and it has to be within a driver's capability to

make a phone call or send an email within that time. It is recommended that the policy be amended so that licence holders are 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.

#### 3. Criminality checks for drivers

- 2.15 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. 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.
- 2.16 Runnymede's current position is that whilst our 'policy' covers criminality checks comprehensively it does not specifically mention that licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list.
- 2.17 Consult on amending policy to change the requirement so that 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.
- 2.18 Do you agree or disagree with this proposal

Agree	25
Disagree	2
Don't know	2

#### **Responder comments**

- The Barred list goes back too far, it brings up juvenile offences 45 yrs and is too far for Minor offences.
- Leave it as it is.

#### Officer comments and Recommendation

2.19 The specific mention of the 'barred list' in the policy would clear up any ambiguity. It is recommended that the policy be amended so that In the interests of public safety, the licensing authorities will not issue a licence to any individual that appears on either barred list.

#### 4. Language proficiency

- 2.20 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.
- 2.21 Runnymede's current position is that we do not have a specific language test in place. The knowledge test itself requires language skill and without this skill applicants would be unable to complete the test successfully.
- 2.22 Consult on amending policy to include a requirement for a language test.
- 2.23 Do you agree or disagree with this proposal

Agree	19
Disagree	9
Don't know	1

#### **Responder comments**

• I am surprised this is not already a requirement.

• Uber has plenty of non-proficient in English.

#### **Officer comments and Recommendation**

- 2.24 We expect all licensed taxi and private hire drivers to have a sufficient command of the English language, so that they can communicate freely and clearly with passengers and officials, including in stressful and emergency situations. Drivers are also expected to be able to identify situations where there may be passenger safeguarding concerns and to possess sufficient communication skills to report those concerns. The ability to converse effectively in English also helps avoid job related misunderstandings such as wrong directions, fare disputes, collecting the wrong customer and misunderstanding a customer's assistance needs.
- 2.25 There is also the question of whether existing drivers should take this test.
- 2.26 The application process which includes a supervised written knowledge test is considered to provide ample evidence of ones reading and writing English language skills. Verbal English is not currently tested and it has not been the subject of complaints from the public in Runnymede.
- 2.27 Both written and verbal English tests are available through various outside suppliers and most of these are carried out online or by phone by the applicant. Both require officer supervision and would add to the cost of licensing for the applicant and the Council. It should be noted that any person wishing to obtain a Visa or settle permanently in the UK must take an English Language Test.
- 2.28 Officers have no records of any complaints about a driver's lack of English language skills in Runnymede. Due to the matters described above, Officers do not recommend that English language tests are introduced at this stage. Should matters come to light which indicate that this becomes an area of concern a report with further information would be presented to this Committee.

#### 5. Criminality checks for vehicle proprietors

### 2.29 Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.

- 2.30 Runnymede's current position is that we do not currently demand a DBS from persons who are sole vehicle proprietors, i.e. not a driver or operator. All our vehicles are owned by the driver or operator. However, to meet the Guidance a small change to policy would be required.
- 2.31 Consult on amending policy to change the requirements an annual basic DBS check from vehicle proprietors.
- 2.32 Do you agree or disagree with this proposal

Agree	11
Disagree	9
Don't know	8

#### **Responder comments**

• 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.

#### Officer comments and Recommendation

- 2.33 This condition would involve minimal work by the licensing section and a small additional cost for proprietors. By law we can only ask for a basic disclosure for operators, these are available online at a cost of £23. 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.
- 2.34 It is recommended that the policy be amended so that vehicle proprietors are required to carry out an annual basic disclosure check from the DBS.

#### 6. In-vehicle visual and audio recording – CCTV

- 2.35 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.
- 2.36 Runnymede's current position is that CCTV is not mandated.
- 2.37 Consult on amending policy to make it a condition of vehicle licensing that all vehicles are fitted with CCTV.
- 2.38 Do you agree or disagree with this proposal

Agree	3
Disagree	21
Don't know	4

#### Responder comments

- This should remain optional, as mentioned this raises privacy issues.
- The Potential for privacy issues is enormous if CCTV was mandatory.
- Most of our cars are already fitted with "insurance cameras" and we don't need another one especially if it involves high costs. I presume it would have to be the same camera fitted to all drivers meaning that the supplier will have the monopoly on fitting and maintaining them and possibly adding a monthly rent to be paid on top of the initial camera cost. Then the privacy concerns. NO THANX (this comment was made 2 times).
- No thanks.
- I do have dash camera also stickers to notify Customers that dashcam is operating.
- Leave up to driver.
- If it's at the government's cost.

#### **Officer comments**

- 2.39 The taxi and private hire trade provide a valuable service, particularly late at night when other forms of public transport are not available. Security for both drivers and passengers is of paramount importance to this Authority.
- 2.40 Licensed drivers deal with strangers, often in isolated places and carry cash and may be at risk of violence and other offences such as non-payment of fares and verbal abuse.

2.41 The purpose of a taxi / private hire vehicle CCTV system should be to 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; Protection of drivers from malicious allegations.

- 2.42 There is very little current evidence of a prevalence of crimes being committed within taxis and private hire vehicles licensed with this Authority. That is not to say incidents do not happen though and officers are aware of a small number of make offs and incidences of violence against drivers within the last few years but they are thankfully, rare.
- 2.43 If a blanket approach to CCTV is introduced by this Authority that is requiring all taxis and private hire vehicles to install CCTV then the Council would be responsible as the Data Controller for the data in each individual licensed vehicle and held liable for any breach of data protection by a driver/operator. In these circumstances the Council would have to specify the CCTV's technical and system requirements to ensure compliance requiring encrypted and secure data storage
- 2.44 This would inevitably mean increased costs to the Council in administration and monitoring compliance, with increased checks to ensure systems are correctly fitted and compliant, as well as increased enforcement activity ensuring cameras are active and data is stored correctly.
- 2.45 The Surveillance Camera Commissioner has been clear (Appendix 'C') 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. Guidance from the Local Government Association (Appendix 'D') and The Surveillance Camera Code of Practice (Appendix 'E') also highlight the issues of proportionality and privacy.
- 2.46 The law is clear that the use of CCTV and audio in taxis must be proportionate to the risk presented, and this Council will need to set out a clear justification of why they believe there is a need for visual and audio recording if applicable.
- 2.47 From enquiries Officers have made with the industry, a standard and robust CCTV system could cost between £500 and £1,000 per vehicle but it can be more, much is dependent on the specification a condition requires and the number of cameras fitted.
- 2.48 The cost of CCTV systems and any increased expenditure in administration and enforcement would have to be met by either by the drivers or Council. Working on the basis that we had 100 vehicles licensed the cost of systems alone would be £50,000 to £100,000.
- 2.49 Several Boroughs within Surrey are undergoing consultation on this matter so it is not yet clear which will engage CCTV as a condition, to date Guildford have done so.
- 2.50 As Members can see from the above information and the consultation responses there is little support for the introduction of CCTV. There is also the cost of such systems and who pays for it along with the ongoing cost in offer time monitoring and controlling data which inevitably would be added to the licence fee. Should Members be minded to approve CCTV, then they must have taken these matters into account and show that it is a proportionate and justifiable step to take.

#### 7. Criminality checks for private hire vehicle operators

- 2.51 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.
- 2.52 Runnymede's current position is that all operators have a basic DBS check every 3 years.
- 2.53 Consult on amending policy to make it a condition of licensing that all operators have an annual basic DBS check.
- 2.54 Do you agree or disagree with this proposal

Agree	17
Disagree	5
Don't know	7

#### Responder comments

nil

#### **Officer comments and Recommendation**

2.55 This condition would involve minimal work by the licensing section and a small additional cost for operators. By law we can only ask for a basic disclosure for operators, these are available online at a cost of £23. It is recommended that the policy be amended so that private hire vehicle operators are required to carry out an annual basic disclosure check from the DBS.

#### 8. Booking and dispatch staff

- 2.56 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.
- 2.57 Runnymede's current position is this is not currently a requirement a change in policy would be required to meet the 'Guidance'.
- 2.58 Consult on amending policy to make it a condition of licensing that requires operators to keep a register of all staff that will take bookings or dispatch vehicles.
- 2.59 Do you agree or disagree with this proposal

Agree	20
Disagree	6
Don't know	3

#### Responder comments

nil

#### Officer Comments and Recommendation

- 2.60 For operators this is a fairly simple process which should not encumber them. As part of any condition operators would have to have had sight of basic DBS checks on all booking and despatch staff.
- 2.61 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.

- 2.62 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.
- 2.63 It is recommended that the policy be amended so that as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept and that operators or applicants for a licence provide their policy on employing ex-offenders in roles that would be on the register as above.

#### 9. Use of passenger carrying vehicles (PCV) licensed drivers.

- 2.64 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.
- 2.65 Runnymede's current position is that this restriction it not in our policy. Consult on amending policy to make it a condition of licensing that 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.
- 2.66 Do you agree or disagree with this proposal

Agree	12
Disagree	5
Don't know	12

#### Responder comments

nil

#### Officer comments and Recommendation

- 2.67 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.
- 2.68 It is recommended that the policy be amended so that 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.

#### 10. Tinted windows (part 6.46, and appendix F/G of the Policy)

2.69 Although not mentioned in the Statutory Guidance the issue around fitting tinted windows to vehicles has been one that has caused considerable discussion amongst the trade since it was introduced in March 2017. There have been 2 consultations to date on this subject firstly prior to its introduction and secondly in August 2018. It was decided to revisit the matter again and review the situation and now is an opportune moment to do so.

2.70 Our current policy states that all:

(a) rear windows must allow at least 70% of light to be transmitted through them. (b)An exception will be made for 8 seater MPV vehicles, tinted windows will be permitted on this type of vehicle.

(c) No vehicle shall be fitted with any form of additional film to darken or tint the windows on any part of the vehicle.

(d) Front side windows and the front windscreen must meet the requirements of the Road Vehicles (Construction and Use) Regulations 1986.

(e) Privacy glass shall only be acceptable where fitted to plate exempt vehicles (f) Any glass which has been replaced must be safety glass and must comply with The Road Vehicles (Construction and Use) Regulations 1986.

6.60(i) In order to avoid unnecessary expense being caused to the trade through this policy. Any existing licensed vehicles which currently have factory fitted privacy glass will be allowed to continue to be licensed on a yearly basis until such time as the vehicle is replaced or changes ownership (by change of ownership this includes the regular use of the vehicle by another driver). This will also allow time for drivers to make other arrangements for those customers who insist on vehicles with privacy glass.

6.60(ii) In relation to 6.60(b) above, in recognition that the larger MPV type vehicles are limited in choice and widely used as wheelchair accessible vehicles any restriction on these may have an adverse effect on the number of wheelchair accessible vehicles in Runnymede. As such an exception has been made for this type of vehicle.

2.71 In consideration of any changes to this policy we would like your views on the options below. Please place a cross next to your preference.

1. Make no change82 Change the minimum amount of light from 70% to 20%21

#### **Responder comments**

- Having Changed my taxi recently I found it very difficult to find a car with a high spec without tinted windows please change this.
- Taxi licensing should allow manufacturer's tinted glass and not boy racer custom glass.

#### Officer comments

- 2.72 This condition was approved by this Committee on 12 January 2017 as part of the Hackney Carriage and Private Hire Licensing Policy effective as from 2 March 2017. Prior to the policy becoming effective there had been no restriction on the level of tinted windows on the rear of Hackney Carriage (taxis) and Private Hire vehicles (PHV's) in Runnymede.
- 2.73 It would be fair to say this condition has caused more controversy within the local trade than any other condition or requirement.
- 2.74 This was original brought into being after a number of convictions in other areas of the Country involving the taxi trade and child sexual exploitation. In addition, much publicity was being given to a high profile sex offender who committed offences while working as a London taxi driver attempting to gain parole from prison. These cases received a great deal of publicity and at that time it was considered an appropriate and proportionate to bring this condition forward as a response to the safety and reassurance of the public.

2.75 Every council can determine the criteria by which it can establish if a vehicle is suitable to be licensed as a private hire vehicle. The Department for Transport (DfT) Taxi and Private Hire Licensing - Best Practice Guidance, issued in 2010, makes the following reference to tinted windows:

The minimum light transmission for glass in front of, and to the side of, the driver is 70%. Vehicles may be manufactured with glass that is darker than this fitted to windows rearward of the driver, especially in estate and people carrier style vehicles. When licensing vehicles, authorities should be mindful of this as well as the large costs and inconvenience associated with changing glass that conforms to both Type Approval and Construction and Use Regulations. (para 30 DfT Taxi and Private Hire Licensing - Best Practice Guidance)

- 2.76 Councils throughout the Country have different standards for vehicle licensing and this combined with the fact that licensed vehicles can operate legally in areas other than those which they are licensed creates a situation where a multitude of vehicles from other areas can work in Runnymede. The requirements and conditions for those vehicles are different to ours and in many cases these vehicles have no restrictions on tinted windows. The largest number of out of area vehicles in Runnymede are PHV's licensed with Transport for London which have no tinted window restrictions. There is national data base of Councils who have a policy on tinted windows but for those which do there are wide variations in standards. For information, Appendix 'F' shows the tinted window standards for Surrey and surrounding Councils.
- 2.77 The main advantages of tinted glass are considered to be:
  - Improved privacy
  - Additional protection from ultraviolet rays (UV)
  - Improved thermal comfort by reducing heat build-up inside the vehicle, although all vehicles now have air conditioning.
  - Private hire vehicles that are adapted to carry wheelchair passengers by their nature tend to have large expanses of glass. The ability for these windows to be tinted would afford passengers improved comfort and make the whole experience more pleasant.
  - In some circumstances it may be the customer's preference to be afforded the privacy provided by darkened glass.
- 2.78 The main disadvantages of tinted glass are considered to be:
  - Tinted windows fundamentally make it more difficult to see into the rear of a vehicle.
  - Activities taking place in the vehicle cannot be viewed from the outside posing a potential risk to both passengers and driver.
  - Enforcement tinted glass prevents enforcement officers including Police officers from carrying out a quick visual check without stopping the vehicle. An operator may be less likely to infringe on licensing seating restrictions if the number of seats can be clearly seen.
  - General Safety At certain times of the day it is in the interests of the drivers or passengers to be on full view. Some passengers will not always behave reasonably. Passengers or drivers on full view may help to reduce unacceptable behaviour. Incidents that could compromise the safety of the driver or passengers may not be seen from outside the vehicle. In the event of an accident clear visibility may assist the Emergency services.
  - Passenger confidence Vulnerable passengers, for example young persons, the elderly and lone females may feel safer in a vehicle where they can be seen.

- 2.79 The main area of concern from the trade is that the majority of new vehicles are now fitted with tinted windows as standard, these have widely varying degrees of tint and are fitted to all but the most basic models with the level of tint being above the levels in our licence condition which excludes them from licensing.
- 2.80 Many drivers while wanting to upgrade their vehicles and buy a newer model are now delaying this decision and using their existing vehicles for longer. This is costly for drivers with older vehicles with high milage do require more maintenance to keep them roadworthy and this is particularly costly when it comes to replacing major components like gearboxes for instance.
- 2.81 The drivers' most recent feedback is that finding suitable vehicles which meet our policy is increasingly difficult as many of the older second hand vehicles which would have met the policy are now unavailable and there is a lack of choice and availability with vehicles whether new or second-hand.
- 2.82 Since the introduction of this policy we have improved driver awareness of CSE and all drivers existing and new have completed on online awareness course on this subject. In addition, to ensure we keep abreast of the drivers fit and proper status it is now policy to carry out enhanced DBS checks every 6 months.
- 2.83 Vehicles from other areas are not encumbered by this condition and continue to infringe on our local trade whose numbers have diminished over the last three years. Other Councils have not followed our lead on tinted windows and appear reluctant to introduce any restriction.
- 2.84 The Government proposals for banning the sale of new petrol and diesel vehicles from 2030 and Runnymede's own policy on having electric vehicles only from 2030 will have a great impact on the taxi trade. Electric vehicles are more limited in choice although by 2030 there may be a wider selection available. By design, electric vehicles have tinted windows, this is specific to electric vehicles and enable the interior to be kept cooler and improved the vehicles range by allowing less use of air conditioning which drains the batteries. By the end of 2020, at least 50 pure-electric cars were available to buy from British showrooms and that number is set to grow considerably in the coming years, with sales of new petrol and diesel cars banned from 2030.
- 2.85 Having a Policy that is clear and up to date in terms of the law and best practice is the keystone to an effective taxi licensing regime. For example, it is clearly important that somebody using a PHV should be confident that the vehicle is suitable and safe. But on the other hand, if the supply of PHVs has been unduly constrained by onerous licensing requirements, then that person's safety might be put at risk by having to wait on late-night streets for a PHV to arrive; he or she might even be tempted to enter an unlicensed vehicle with an unlicensed driver illegally plying for hire. Hackney carriages and private hire vehicles licensed elsewhere can legitimately operate in Runnymede as a Licensing Authority we have no say in the terms and conditions relating to these vehicles.
- 2.86 If prospective licence holders find it difficult to licence their vehicle of choice and/or are unable to find suitable vehicles that meet Runnymede's specification, then they may opt to become licensed elsewhere. It is felt that the cost now involved in replacing the tinted windows is putting additional, and sometimes, substantial cost and inconvenience on the vehicle proprietors wanting to upgrade their licensed vehicles.
- 2.87 Public safety is an important aspect for the Committee to consider when resolving to approve a policy or revised policy. Since the introduction of this policy we have improved driver awareness of safeguarding and all drivers existing and new have passed a mandatory online Safeguarding Awareness training course on this subject.

In addition, to ensure we keep abreast of the drivers fit and proper status it is now policy to carry out enhanced DBS checks every 6 months.

- 2.88 Officers have found during vehicle inspections that the view into the rear of a vehicle fitted with tinted windows varies with the time of day and lighting conditions but the effect of even heavily tinted windows does not prevent recognition of the number of persons in the vehicle. In fact, the element which causes most difficulty when it comes to viewing inside a vehicle is reflection from sunlight and artificial light and this is regardless of whether windows are tinted or not.
- 2.89 Having to replace glazing to an existing vehicle without compliant glazing is an additional cost to the vehicle owner if they wish to licence that vehicle. Costs vary between manufacturers but it is believed to cost between £500 and £1500 for a standard saloon/estate type vehicle, for premium brands the costs can be much higher. That said it is the owner's choice whether to purchase the vehicle and incur the additional cost. However, in a post pandemic climate this is yet another cost for drivers.
- 2.90 An increasing amount of officer and licence holder time is taken up making subjective decisions on vehicles with tinted glass.
- 2.91 Should Members be minded to relax this condition, and allow tinted window which allow 20% and above of light transmission then it follows that theses should be the manufacturer's original fitted windows. This would ensure poorer quality aftermarket windows which may not meet current manufacturers standards cannot be used. By clarifying the Policy and permitting all manufacturer fitted rear tinted window, resources will be more effectively deployed. The 20% limit will allow the vast majority of vehicles to be considered for everyday use as a hackney carriage or private hire vehicle. An exception already exists within our policy for privacy glass below the 20% level in plate exempt executive vehicles which are used exclusively for private hire contract work.
- 2.92 As described above this is a controversial and complex matter for Members to decide on. The question Members must address is, has this condition outlived its usefulness and is it as necessary as it once was, it is proportionate to have this condition when so many surrounding boroughs do not and their vehicles regularly work within Runnymede. Members should note 2.84 regarding driver and operator safeguarding training and frequent DBS checks.

#### 3. **Policy framework implications**

3.1 The Hackney Carriage and Private Hire licensing policy will require updating to take any amendments into account.

#### 4. **Resource implications**

4.1 Subject to approval of changes to the policy, the Senior Licensing Officer will update the policy as soon as possible.

#### 5. Legal implications

- 5.2 The Statutory Taxi and Private Hire Standards have been published by the Department for Transport under the powers set out in section 177 of the Policing and Crime Act 2017.
- 5.3 Section 177(4) of the Policing and Crime Act 2017 states that any public authority which has licensing functions under taxi and private hire vehicle legislation must have regard to any guidance issued under this section. 1 Failure to have regard to the guidance issued under section 177 would leave the Council in breach of a legal

duty to do so. 4.2 Although it remains the case that the Council must reach its own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the 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.

#### 6. Equality Implications

- 6.1 The Equality Act 2010 (the 2010 Act) identifies 9 different 'Protected Characteristics' being:
  - 1) age
  - 2) disability
  - 3) gender re-assignment
  - 4) marriage and civil partnership
  - 5) pregnancy and maternity
  - 6) race
  - 7) religion and belief
  - 8) sex; and
  - 9) sexual orientation
- 6.2 The 2010 Act prohibits the direct or indirect discrimination of any person or group who has or shares a particular Protected Characteristic, where such direct or indirect discrimination occurs because of that protected Characteristic
- 6.3 Section 149 of the 2010 Act sets out a 'Public Sector Equality Duty' (the Duty) on all public authorities. The Duty requires that a public authority must, in the exercise of its functions, have 'due regard' to the need to:
  - Eliminate unlawful discrimination:
  - Advance equality of opportunity between people who share a Protected Characteristic and people that do not share it; and
  - Foster good relations between people who share a Protected Characteristic and people who do not share it
- 6.4 Accordingly, the Council will need to ensure that it discharges the Duty in the adoption of Statutory Standards for taxi licensing.
- 6.5 When the Statutory Standards were drawn up by the Department for Transport its focus was initially on safeguarding children and vulnerable adults; thus, equalities was an integral part of the Standards. Other priorities affect the protected characteristics of gender and disability. It is recognised that a disproportionate number of people with disabilities rely on the taxi and private hire trade, and accessibility is an important consideration. The Council's Hackney Carriage and Private Hire Policy was the subject of an Equalities Impact Screening Assessment when it was first introduced and then reviewed again by this Committee in January 2020.

#### 7. Conclusions

- 7.1 The Statutory Taxi and Private Hire Standards are long overdue and very welcome; they at least provide some commonality countrywide. There many other areas of the taxi licensing regime which remain problematic and it is hoped that further changes may be forthcoming.
- 7.2 Members are asked to consider the contents of this report and make an informed decision on the direction of the policy.

#### (To resolve)

#### **Background papers**

Runnymede Hackney Carriage and Private Hire Licensing Policy <u>https://www.runnymede.gov.uk/article/14529/Hackney-Carriage-and-Private-Hire-Licensing-Policy-Fees-fares-DBS-checks</u>

Statutory Taxi and Private Hire Vehicle Standards <u>https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\_d</u> <u>ata/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf</u>

Section 177 of the Policing and Crime Act 2017 https://www.legislation.gov.uk/ukpga/2017/3/section/177

Department for Transport Best Practice Guidance <u>https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-best-practice-guidance</u>



## Response to the Department for Transport consultation on taxi and private hire vehicle licensing (accessible)

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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.

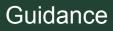
8. Where it is the case that taxi drivers use the vehicle for their own private use the Commissioner would expect there to be a facility to switch off recording. In addition there must be clear policies and procedures in place regarding how the CCTV system is used and who can access the footage it records 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.

Appendix D



# 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

## Contents

Introduction	4
Overview – benefits and challenges of CCTV in taxis/PHVs	6
Developing an approach to CCTV	10
Consultation and engagement	12
Data protection, privacy and information governance	13
The regulatory framework	13
Information governance	16
Implementation and enforcement	22
Appendices	25
Flow chart	25
Glossary	26
Links to useful resources and guidance	27

## 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.<sup>1</sup> Many more councils allow the use of CCTV systems in taxis/PHVs or have a voluntary scheme in place – latest figures<sup>2</sup> 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)<sup>3</sup> 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 places<sup>4</sup>, 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.

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.

<sup>2</sup> www.gov.uk/government/statistics/taxi-and-private-hirevehicle-statistics-england-2018

<sup>3</sup> https://assets.publishing.service.gov.uk/government/ uploads/system/uploads/attachment\_data/file/282774/ SurveillanceCameraCodePractice.pdf

<sup>&#</sup>x27;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 DfTs 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.<sup>5</sup> Both privacy issues and legal requirements around data protection are discussed in full later in this guidance.

5 www.gov.uk/government/publications/privacy-impactassessments-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.<sup>6</sup>

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 three<sup>7</sup> 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.

<sup>6</sup> See page 119 https://present.brighton-hove.gov.uk/ Published/C00000116/M00004177/Al00030770/ Enc1forHackneyCarriageUnmetDemandSurveyv2.pdf

<sup>7</sup> 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 taxis<sup>8</sup> 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.<sup>9</sup>

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' Toolkit<sup>10</sup> which is an easy-to-follow guide for nonexperts who are considering the use of a CCTV system, and the Passport to Compliance<sup>11</sup> 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 post<sup>12</sup> suggesting that a requirement for continuous recording when a vehicle is being used in a private capacity is likely to

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

<sup>9</sup> www.gov.uk/government/speeches/surveillance-cameracommissioners-speech-to-the-national-taxi-association-agm

<sup>10</sup> www.gov.uk/government/publications/surveillance-cameracommissioners-buyers-toolkit

<sup>11</sup> www.gov.uk/government/publications/passport-tocompliance

<sup>12</sup> https://ico.org.uk/about-the-ico/news-and-events/blogcontinuous-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.'<sup>13</sup>

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.<sup>14</sup>

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

<sup>14</sup> 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.<sup>15</sup>

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 Toolkit<sup>16</sup> 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.

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

<sup>16</sup> www.gov.uk/government/publications/surveillance-cameracommissioners-buyerstoolkit

- 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 Practice<sup>17</sup> (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.<sup>18</sup> 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 SSC 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.

<sup>17</sup> https://assets.publishing.service.gov.uk/government/ uploads/system/uploads/attachment\_data/file/204775/ Surveillance\_Camera\_Code\_of\_Practice\_WEB.pdf

<sup>18</sup> www.gov.uk/government/uploads/system/uploads/ attachment\_data/file/204775/Surveillance\_Camera\_Code\_ of\_Practice\_WEB.pdf

The SCC's self-assessment tools<sup>19</sup> 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.<sup>20</sup>

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.<sup>21</sup>

## 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 Practice<sup>22</sup>, 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. 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 website<sup>23</sup> and the SCC has also issued a number of helpful tools.<sup>24</sup> 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

<sup>19</sup> 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

<sup>20</sup> www.gov.uk/government/publications/surveillance-cameracode-of-practice-third-party-certification-scheme

<sup>21</sup> 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/disclosurethe-importance-of-complying-with-the-surveillance-cameracode-of-practice/

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

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

<sup>24</sup> www.gov.uk/government/organisations/surveillance-cameracommissioner

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.<sup>25</sup>

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 <u>https://ico.org.uk/about-the-ico/news-and-events/blog-</u> 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\_mbc\_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 polices 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.<sup>26</sup> 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-tothe-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.<sup>27</sup> Principles six, seven and nine of the SC Code also cover the storage and use of images captured from CCTV in taxis.

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

<sup>27</sup> 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 compliant.

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 website<sup>28</sup> 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.

<sup>28</sup> https://ico.org.uk/for-organisations/guide-to-the-generaldata-protection-regulation-gdpr/individual-rights/right-to-beinformed

# 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.<sup>29</sup> 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.

<sup>29</sup> www.gov.uk/guidance/recommended-standards-for-thecctv-industry

Systems should also comply with relevant legislation and standards. Council's 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 selfassessment 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

		Planning ar	nd Feasibi	ility		
			Vhat you want it to do Record images, audio recording.		Data protection impact assessment How can you mitigate privacy concerns.	
		Developi	ng a polic	у		
Requirements for operation When are cameras/ audio required to be in use, does the policy cover taxis and PHVs.	Data protection consideration Who is the dat controller, in w circumstances data be downlo what is the rete period.	s of Freedo a consider hat Have you can with PoFA baded, SC Code	oms ations complied A and the	Develop a techn specification Including technica requirements and how systems sho be installed, how data is kept secu	Full public consultation to seek views, this should inform the final polic which is taken to	
		Implementa	ation/roll-	out		
and the general public officers as about the new policy and drivers ab where concerns can be responsib		cil enforcement as well as for bout their bilities and how to questions from	the roll out, licenced ve	approach to and when	<b>Review</b> On-going review of the policy.	

## Appendix 2: Glossary

#### Surveillance camera systems

The statutory definition for a surveillance camera systems is set out in Section 29(6) of the 2012 Act<sup>30</sup> 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/guideto-the-general-data-protection-regulationgdpr/accountability-and-governance/dataprotection-impact-assessments/

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

https://ico.org.uk/about-the-ico/news-andevents/blog-continuous-cctv-in-taxis-wheredo-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-tothe-general-data-protection-regulation-gdpr/ accountability-and-governance/contracts/

#### Individual rights

https://ico.org.uk/for-organisations/guide-tothe-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-thirdparty-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-buyerstoolkit

#### Blog 'CCTV in Taxis - are you taking to me?'

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

## Speech to the National Association of Taxi Drivers

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

#### Useful case studies from the Commissioner

www.gov.uk/government/collections/ surveillance-camera-code-of-practice-casestudies



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Appendix 'E'



## Surveillance Camera Code of Practice

June 2013

## **Surveillance Camera Code of Practice**

Presented to Parliament Pursuant to Section 30 (1) (a) of the Protection of Freedoms Act 2012

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1.	Introduction	4
2.	Overview and Guiding Principles	9
3.	The development or use of surveillance camera systems	12
4.	The use or processing of images or other information obtained by virtue of such systems 1	16
5.	Surveillance Camera Commissioner	22

## Chapter 1: Introduction

### Definitions

#### 1.1 In this code:

- "1998 Act" means the Data Protection Act 1998.
- "2000 Act" means the Regulation of Investigatory Powers Act 2000.
- "2012 Act" means the Protection of Freedoms Act 2012.
- "Overt surveillance" means any use of surveillance for which authority does not fall under the 2000 Act.
- "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 the 2012 Act.
- "Surveillance camera systems" has the meaning given by Section 29(6) of the 2012 Act 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)<sup>1</sup>.
- "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.

#### Background

1.2 This code of practice is issued by the Secretary of State under Section 30 of the 2012 Act. It provides guidance on the appropriate and effective use of surveillance camera systems by relevant authorities (as defined by section 33 of the 2012 Act) in England and Wales who must 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.

63
 Surveillance Camera Code of Practice pursuant to the Protection of Freedoms Act 2012

<sup>1</sup> 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.

#### Purpose of the code

- 1.3 Surveillance camera systems are deployed extensively within England and Wales, and these systems form part of a complex landscape of ownership and operation. Where used appropriately, these systems are valuable tools which contribute to public safety and security and in protecting both people and property.
- 1.4 The 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<sup>2</sup>; proportionate; effective, and; compliant with any relevant legal obligations.
- 1.5 The purpose of the code will be to ensure that individuals and wider communities have confidence that surveillance cameras are deployed to protect and support them, rather than spy on them. The government considers that wherever overt surveillance in public places is in pursuit of a legitimate aim and meets a pressing need, any such surveillance should be characterised as surveillance by consent, and such consent on the part of the community must be informed consent and not assumed by a system operator. Surveillance by consent should be regarded as analogous to policing by consent. In the British model of policing, police officers are citizens in uniform. They exercise their powers to police their fellow citizens with the implicit consent of their fellow citizens. Policing by consent is the phrase used to describe this. It denotes that the legitimacy of policing in the eyes of the public is based upon a general consensus of support that follows from transparency about their powers, demonstrating integrity in exercising those powers and their accountability for doing so.
- 1.6 In order to achieve this, the code sets out guiding principles that should apply to all surveillance camera systems in public places. These guiding principles are designed to provide a framework for operators and users of surveillance camera systems so that there is proportionality and transparency in their use of surveillance, and systems are capable of providing good quality images and other information which are fit for purpose.
- 1.7 To support the practical application of these guiding principles by a system operator, the Surveillance Camera Commissioner will provide information and advice on appropriate and approved operational and technical standards for various aspects of surveillance camera systems and on appropriate and approved occupational and competency standards for persons using these systems or processing images and information obtained by these systems to supplement this code.
- 1.8 This code has been developed to address concerns over the potential for abuse or misuse of surveillance by the state in public places, with the activities of local authorities and the police the initial focus of regulation. However, the government fully recognises that many surveillance camera systems within public places are operated by the private sector, by the third sector or by other public authorities (for example, shops and shopping centres, sports grounds and other sports venues, schools, transport systems and hospitals). Informed by advice from the Surveillance Camera Commissioner, the government will keep the code under review and may in due course consider adding others to the list of relevant authorities pursuant to section 33(5)(k) of the 2012 Act.

<sup>2</sup> A public authority will be bound by the Human Rights Act 1998 and will therefore be required to demonstrate a pressing need when undertaking surveillance as this may interfere with the qualified right to respect for private and family life provided under Article 8 of the European Charter of Human Rights. This is the case whether or not that public authority is a relevant authority. A system operator who is not a public authority should nevertheless satisfy themselves that any surveillance is necessary and proportionate.

### Scope of surveillance activity to which this code applies

- 1.9 The code applies to the use of surveillance camera systems as defined in paragraph 1.1 that operate in public places in England and Wales, regardless of whether or not there is any live viewing, or recording of images or information or associated data.
- 1.10 Covert surveillance by public authorities (as defined in Part II of the 2000 Act) is not covered by this code but is regulated by the 2000 Act. Covert surveillance in public places by those who do not fall within the 2000 Act (for example, the private operator of a surveillance camera system in a shopping centre) may be used as part of a specific investigation in exceptional and justifiable circumstances. Any such covert use of private systems by or on behalf of a public authority (with the authority's knowledge) immediately places such use within the bounds of the 2000 Act.

#### Effect of the Code

- 1.11 A relevant authority must follow a duty to have regard to the guidance in this code when, in exercising any of its functions, it considers that the future deployment or continued deployment of 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. 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. Contractual provisions 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. The duty to have regard does not extend to such third party service providers or partners unless they themselves are a relevant authority.
- 1.12 When a relevant authority in England has civil parking enforcement functions under the Traffic Management Act 2004 or bus lane enforcement functions under the Transport Act 2000, and considers the use of surveillance camera systems in exercising those functions, it must have regard to the guidance in this code. The primary purpose of any surveillance camera system used as part of civil enforcement arrangements must be the safe and efficient operation of the road network by deterring motorists from contravening parking or road traffic restrictions. Motorists may regard enforcement by cameras as over-zealous and relevant authorities should use them sparingly. Such systems should, therefore, only be deployed where other means of enforcement are not practical and their effectiveness in achieving this purpose is subject to regular review. Where there is any conflict between this code and the secondary legislation made under the Traffic Management Act 2004 or the Transport Act 2000 relevant to those functions or the statutory guidance issued under section 87 of the Traffic Management Act 2004, the provisions made in or under the Traffic Management Act 2004 and the Transport Act 2000 shall apply.
- 1.13 When a relevant authority in England has civil enforcement functions for moving traffic contraventions under the London Local Authorities Act 1996 Part 2, the London Local Authorities Act 2000 Schedule 2 and the London Local Authorities and Transport for London Act 2003 Part 2, and considers the use of surveillance camera systems in exercising those functions, it must have regard to the guidance in this code. The primary purpose of any surveillance camera system used as part of civil enforcement arrangements must be the safe and efficient operation of the road network by deterring

motorists from contravening parking or road traffic restrictions. Motorists may regard enforcement by cameras as over-zealous and relevant authorities should use them sparingly. Such systems should , therefore, only be deployed where other means of enforcement are not practical and their effectiveness in achieving this purpose is subject to regular review. Where there is any conflict between this code and London Local Authorities Act 1996 Part 2, the London Local Authorities Act 2000 Schedule 2 and the London Local Authorities and Transport for London Act 2003 Part 2 relevant to those functions then that legislation shall apply.

- 1.14 When a relevant authority in Wales has civil parking, bus lane or moving traffic enforcement functions under the Traffic Management Act 2004 and considers the use of surveillance camera systems in exercising those functions, it must have regard to the guidance in this code. The primary purpose of any surveillance camera system used as part of civil enforcement arrangements must be the safe and efficient operation of the road network by deterring motorists from contravening parking or road traffic restrictions. Motorists may regard enforcement by cameras as over-zealous and relevant authorities should use them sparingly. Such systems should , therefore, only be deployed where other means of enforcement are not practical and their effectiveness in achieving this purpose is subject to regular review. Where there is any conflict between this code and the secondary legislation made under the Traffic Management Act 2004 relevant to those functions or the Statutory Guidance documents issued by the Welsh Government under section 87 of the Traffic Management Act 2004, then that legislation and guidance shall apply.
- 1.15 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. Applications in relation to licensed premises must take into account the circumstances surrounding that application and whether a requirement to have a surveillance camera system is appropriate in that particular case. For example, it is unlikely that a trouble-free community pub would present a pressing need such that a surveillance camera condition would be justified. In such circumstances where a licence or certificate is granted subject to surveillance camera system conditions, the consideration of all other guiding principles in this code is a matter for the licensee as the system operator.
- 1.16 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.
- 1.17 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 are not, however, bound by any duty to have regard to this code.

#### **Relevant documents**

- 1.18 The Information Commissioner's CCTV Code of Practice provides good practice guidance for those involved in operating CCTV and other surveillance camera systems which view or record images of individuals including information derived from those images that may be related to them such as a vehicle registration mark. Its primary purpose is to help those involved in such activities to comply with their legal obligations under the 1998 Act.
- 1.19 The covert surveillance and property interference code of practice published by the Home Office provides statutory guidance on the use of covert surveillance by public authorities under the 2000 Act. Further guidance on the application of the 2000 Act is available from the Office of the Surveillance Commissioners.
- 1.20 This code provides guidance on the use of surveillance camera systems but does not replace or remove any statutory obligations on operators or users of such systems to comply with the provisions of both the 1998 Act and the 2000 Act.

## Chapter 2: Overview and Guiding Principles

- 2.1 Modern and forever 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 and information. This technology can be a valuable tool in the management of public safety and security, in the protection of people and property, in the prevention and investigation of crime, and in bringing crimes to justice. Technological advances can also provide greater opportunity to safeguard privacy. Used appropriately, current and future technology can and will provide a proportionate and effective solution where surveillance is in pursuit of a legitimate aim and meets a pressing need.
- 2.2 In general, any increase in the capability of surveillance camera system technology also has the potential to increase the likelihood of intrusion into an individual's privacy. The Human Rights Act 1998 gives effect in UK law to the rights set out in the European Convention on Human Rights (ECHR). Some of these rights are absolute, whilst others are qualified, meaning that it is permissible for the state to interfere with the right provided that the interference is in pursuit of a legitimate aim and the interference is proportionate. Amongst the qualified rights is a person's right to respect for their private and family life, home and correspondence, as provided for by Article 8 of the ECHR<sup>3</sup>.
- 2.3 That is not to say that all surveillance camera systems use technology which has a high potential to intrude on the right to respect for private and family life. Yet this code must regulate that potential, now and in the future. In considering the potential to interfere with the right to privacy, it is important to take account of the fact that expectations of privacy are both varying and subjective. In general terms, one of the variables is situational, and in a public place there is a zone of interaction with others which may fall within the scope of private life. An individual can expect to be the subject of surveillance in a public place as CCTV, for example, is a familiar feature in places that the public frequent. An individual can, however, rightly expect surveillance in public places to be both necessary and proportionate, with appropriate safeguards in place.

<sup>3</sup> Article 8 of the European Charter on Human Rights reads as follows:

Right to respect for private and family life

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

<sup>2.</sup> 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 wellbeing 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.

- 2.4 The decision to use any surveillance camera technology must, therefore, be consistent with a legitimate aim and a pressing need. Such a legitimate aim and pressing need must be articulated clearly and documented as the stated purpose for any deployment. 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 over the most appropriate technology should always take into account its potential to meet the stated purpose without unnecessary interference with the right to privacy and family life. Furthermore, any deployment should not continue for longer than necessary.
- 2.5 The starting point for a system operator in achieving the most appropriate balance between public protection and individual privacy and thereby achieving overt surveillance by consent 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, to run any such system effectively, helps ensure compliance with other legal duties and to maximise the likelihood of achieving surveillance by consent.

#### **Guiding Principles**

- 2.6 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 use 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 Surveillance Camera Code of Practice pursuant to the Protection of Freedoms Act 2012

- 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.

## Chapter 3: The development or use of surveillance camera systems

This chapter expands on guiding principles 1-4 which address the development or use of surveillance camera systems

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.

- 3.1.1 Surveillance camera systems operating in public places must always have a clearly defined purpose or purposes in pursuit of a legitimate aim and necessary to address a pressing need (or needs). Such a legitimate aim and pressing need might 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.
- 3.1.2 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 the police and the criminal justice system.
- 3.1.3 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.

Principle 2 - The use 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.

3.2.1 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, such as toilets or changing rooms, 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.

- 3.2.2 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.
- 3.2.3 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<sup>4</sup>. It should always involve human intervention before decisions are taken that affect an individual adversely.
- 3.2.4 This principle points to the need for a privacy impact assessment process 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. In the case of a public authority, this also demonstrates that both the necessity and extent of any interference with Article 8 rights has been considered.
- 3.2.5 A privacy impact assessment also helps assure compliance with obligations under the 1998 Act. Comprehensive guidance on undertaking a privacy impact assessment is available from the Information Commissioner's Office. This encourages organisations to devise and implement an assessment process that is appropriate and proportionate to their circumstances.

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.

- 3.3.1 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 that information is to be used. This is an integral part of overt surveillance and is already a legal obligation under the 1998 Act. Furthermore, such awareness on the part of the public supports and informs the concept of surveillance by consent.
- 3.3.2 Surveillance by consent 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 provides an opportunity to identify any concerns and modify the proposition to strike the most appropriate balance between public protection and individual privacy.

<sup>4</sup> The Surveillance Camera Commissioner will be a source of advice on validation of such systems.

- 3.3.3. 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.
- 3.3.4 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.
- 3.3.5 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.
- 3.3.6 This is not to imply that the exact location of surveillance cameras should always be disclosed if to do so would be contrary to the interests of law enforcement or national security.
- 3.3.7 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.
- 3.3.8 Once a complaint has been concluded 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.
- 3.3.9 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 or the Information Commissioner for any offences under the 1998 Act.
- 3.3.10 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.
- 3.3.11 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.
- 3.3.12 The Surveillance Camera 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 Surveillance Camera Commissioner on an ad hoc and where appropriate anonymised basis to assist in any review of the operation of this code of practice.

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

- 3.4.1 Persons 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 it purpose.
- 3.4.2 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.
- 3.4.3 A surveillance camera system may be used for more than one purpose. For example, one purpose might be crime prevention and detection, and another traffic management. Accountability for each purpose may rest within different elements of a system operator's management structure. Should that be the case, then it is good practice for the governance arrangements to include those accountable for each purpose and facilitate effective joint working, review and audit, decision making and public engagement.

## Chapter 4: The use or processing of images or other information obtained by virtue of such systems

This chapter expands on guiding principles 5-12 which address the use or processing of images and information.

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.

- 4.5.1 There are significant benefits in having clear policies and procedures for the operation of any surveillance. This can not only aid the effective management and use of a surveillance camera system but also help ensure that any legal obligations affecting the use of such a system are addressed.
- 4.5.2 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.
- 4.5.3 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 requirement of the 1998 Act that organisations ensure the reliability of staff having access to personal data, including images and information obtained by surveillance camera systems.
- 4.5.4 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.
- 4.5.5 The Surveillance Camera Commissioner will provide advice and guidance on relevant quality management and occupational competency standards.
- 4.5.6 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. It is a criminal offence for staff to carry out licensable activities without an SIA licence.

- 4.5.7 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.
- 4.5.8 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.

- 4.6.1 Images and information obtained from a surveillance camera system should not be kept for longer than necessary to fulfil the purpose for which they were obtained in the first place. This period should be decided in advance and be the minimum period necessary. This is also a requirement of the 1998 Act and further guidance on this is contained in the ICO CCTV code of practice.
- 4.6.2 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.
- 4.6.3 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.

4.7.1 The disclosure 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 the 1998 Act makes exemptions which allow it provided that the applicable requirements of the 1998 Act 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.

- 4.7.2 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 1998 Act, as a wide disclosure may be an unfair intrusion into the privacy of the individuals concerned.
- 4.7.3 A system operator should have clear polices 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 of 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.
- 4.7.4 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 the 1998 Act and the Human Rights Act 1998 in relation to any further disclosures.
- 4.7.5 Individuals can request images and information about themselves through a subject access request under the 1998 Act. Detailed guidance on this and matters such as when to withhold images of third parties caught in images is included in the ICO CCTV code of practice.
- 4.7.6 Requests for information from public bodies may be made under the Freedom of Information Act 2000. Detailed guidance on these obligations is included in the ICO CCTV code of practice.

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.

4.8.1 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.

- 4.8.2 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<sup>5</sup>, or at a global level by the International Electrotechnical Commission. 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 taking steps to secure certification against those standards.
- 4.8.3 Such certification is likely to involve assessment by an independent certification body. 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.
- 4.8.4 A current list of recommended standards for consideration by a system operator will be maintained and made available by the Surveillance Camera Commissioner. Such a list will provide detailed guidance on suitable standards and the bodies that are able to accredit performance against such standards.

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

- 4.9.1 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.
- 4.9.2 Under the 1998 Act, 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.
- 4.9.3 Security extends to technical, organisational and physical security and there need to be measures in place to ensure that this is the case and guard against unauthorised use, access or disclosure. The ICO CCTV code of practice gives 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.

- 4.10.1 Good practice dictates that a system operator should review the continued use of a surveillance camera system on a regular basis, at least annually, to ensure it remains necessary, proportionate and effective in meeting its stated purpose for deployment.
- 4.10.2 As part of the regular review of the 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.

<sup>5</sup> CENELEC is also known as the European Committee for Electrotechnical Standardization

- 4.10.3 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.
- 4.10.4 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.

- 4.11.1 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 purpose of a system includes crime prevention, detection and investigation, it should 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 and the criminal justice system, will not be able to play their part effectively in meeting the intended purpose of the system.
- 4.11.2 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. 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.
- 4.11.3 It is important that digital images and other related information can similarly be shared with ease with appropriate law enforcement 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.
- 4.11.4 It is therefore essential that any digital images and information likely to be shared with law enforcement 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 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 of the original recording and any associated meta data (e.g. time, date and location).

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.

- 4.12.1 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.
- 4.12.2 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.
- 4.12.3 There may be occasions when the inclusion of information about an individual in a reference database with the intention of undertaking surveillance can be considered as covert surveillance and thus fall with the bounds of the 2000 Act. Further guidance on the application of the 2000 Act is available in the Home Office statutory covert surveillance and property interference code of practice and from the Office of the Surveillance Commissioners.

# Chapter 5: Surveillance Camera Commissioner

- 5.1 The Surveillance Camera Commissioner, (the commissioner), is a statutory appointment made by the Home Secretary under Section 34 of the 2012 Act. The commissioner's statutory functions are:
- a) encouraging compliance with this code;
- b) reviewing the operation of this code; and
- c) providing advice about this code (including changes to it or breaches of it).
- 5.2 In order to fulfil these functions effectively, the commissioner must work closely with other regulators including the Information Commissioner and the Chief Surveillance Commissioner. It is for the commissioner and other regulators to determine how best to maintain and formalise these relationships, to agree gateways through which issues flow between the public and the commissioners and how best to publicise and report on arrangements to support these relationships which will be critical in ensuring the success of the code in meeting its purpose.

### Ways of working

- 5.3 The commissioner has no enforcement or inspection powers. In encouraging compliance with the code he should consider how best to ensure that relevant authorities are aware of their duty to have regard for the code and how best to encourage its voluntary adoption by other operators of surveillance camera systems.
- 5.4 The commissioner is expected to provide advice about the relevant operational, technical, quality management and occupational competency standards which are available for a system operator. A system operator can then consider these standards in determining how best to meet the purpose of their surveillance camera system whilst meeting legal obligations, making effective use of it, and safeguarding privacy considerations. Such advice can be updated to reflect developments in both the available technology and professional practice.
- 5.5 In reviewing the operation of the code, the commissioner should consider the impact of this system of regulation against published success criteria and the opportunities to improve compliance in line with better regulation principles.
- 5.6 The commissioner should provide advice and information to the public and system operators about the effective, appropriate, proportionate and transparent use of surveillance camera systems and should consider how best to make that information available. Such advice should complement the content of this code, and may for example provide additional detail on good practice, advice on the effectiveness of surveillance cameras and how this might be assessed, or on the proportionate application of any new technological developments in surveillance camera systems. Such advice could, for example, include the preparation of a manual of regulation that sets out how the commissioner will fulfil his functions.

- 5.7 The commissioner may establish a non statutory advisory council with specialist subgroups to support him in fulfilling his functions. Any advisory council or specialist subgroup must have representation from such persons appearing to the commissioner to be representative of the views of relevant authorities and from the Home Office.
- 5.8 The commissioner must prepare a report about the exercise of his functions during the reporting period, and:
- a) give a copy of the report to the Secretary of State;
- b) the Secretary of State must lay a copy of the report before Parliament; and
- c) the commissioner must publish the report.
- 5.9 The reporting periods are set out in Section 35 of the 2012 Act.



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COUNCIL	TINTING POLICY
GUILDFORD	The windows of any vehicle shall not have been treated so that anything other than the manufacturer's original fitted windows are in use (privacy glass is excluded). The windows of any vehicle shall not have been treated with any tint other than that originally fitted to the vehicle, i.e. tinting film. All windows let enough light through for a person 20 meters away to be able to see the number of passengers in the vehicle in daylight.
WOKING	No policy regarding tinting
SPELTHORNE	As Runnymede but under review to reduce
REIGATE & BANSTEAD	Where fitted, the degree of tint or silvering must comply with Regulation 32(1) of the Road Vehicles (Construction and Use) Regulations 1986, which defines the acceptable standard. (this applies to the front side windows and windscreen only).
EPSOM & EWELL	Any vehicles which are brought in to be licensed must meet a minimum of 70% light transmission for front glass and to both sides of the driver. No restriction on rear glass.
RUNNYMEDE	The following conditions apply to vehicle windows on the rear windscreen / rear side windows:- (a) All rear windows must allow at least 70% of light to be transmitted through them. (b) No vehicle shall be fitted with any form of additional film to darken or tint the windows on any part of the vehicle. (c) Front side windows and the front windscreen must meet the requirements of the Road Vehicles ( Construction and Use ) Regulations 1986. (d) Privacy glass shall only be acceptable where fitted to plate exempt vehicles

RBWM	All vehicles must comply with the Road Vehicles (Construction & Use) Regulations 1986 (this applies to the front side windows and windscreen only).
Bracknell Forest	All licensed vehicles (except for private hire vehicles with a dispensation) must meet the following requirements: (i) Light transmitted through the windscreen must be at least 75% (ii) All other windows (both front and rear) must allow at least 70% of light to be transmitted.
Mole Valley	No policy regarding tinting
Elmbridge	<ul> <li>For vehicles first used on or after 01 April 1985:</li> <li>a) the light transmittance through windscreen and front side windows must be not be less than 75%</li> <li>b) the light transmittance through the front side windows must not be less than 70%.</li> <li>4.4 For vehicles not previously licensed by the Council:</li> <li>a) the light transmittance through all rear side windows must not be less than 22%</li> <li>b) the light transmittance through the rear windscreen must not be less than 22%.</li> <li>All vehicles must comply with the Road Vehicles (Construction &amp; Use) Regulations 1986. (this applies to the front side windows and windscreen only).</li> </ul>
Surrey Heath	No additional tinting permitted to windows.
Tandridge	Tinted windows are permitted if they are part of the original manufacturers specification. Third party or accessory film are not permitted if they do not achieve the legal requirements
Transport for London	All vehicles must comply with the Road Vehicles (Construction & Use) Regulations 1986 – (this applies to the front side windows and windscreen only). Additionally tinted windows are not allowed on any London Hackney Carriage.

#### 8. Exclusion of Press and Public

If Members are minded to consider any of the foregoing items in private, it is the

#### **OFFICERS' RECOMMENDATION that -**

the press and public be excluded from the meeting during discussion of the report(s) under Section 100A(4) of the Local Government Act 1972 on the grounds that the report(s) in question would be likely to involve disclosure of exempt information of the description specified in the relevant paragraphs of Part 1 of Schedule 12A of the Act.

(To Resolve)

#### <u>PART II</u>

### Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.

a) Exempt Information

(No reports to be considered under this heading)

b) <u>Confidential Information</u>

(No reports to be considered under this heading)