



CHESTERFIELD
BOROUGH COUNCIL

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The Chair and Members of Appeals
and Regulatory Committee

Dear Councillor,

AGENDA SUPPLEMENT

Please see attached the documents for the agenda item(s) listed below for the meeting of the APPEALS AND REGULATORY COMMITTEE to be held on WEDNESDAY, 15 DECEMBER 2021, the agenda for which has already been published.

50. Hackney Carriage and Private Hire Licensing Policy - CCTV (Pages 3 - 10)

Yours sincerely,

Head of Regulatory Law and Monitoring Officer

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For publication

Hackney Carriage and Private Hire Licensing Policy -

Meeting: Appeals and Regulatory Committee

Date: 8 December 2021

Cabinet portfolio: Health and Wellbeing

Report by: Licensing Manager

Policy Amendment

For publication

1 PURPOSE OF REPORT

- 1.1 To consider a consultation process on the mandating of CCTV in taxis and private hire vehicles licensed by the council.

2.0 RECOMMENDATIONS

- 2.1 Members approve a consultation process.

3.0 REASON FOR RECOMMENDATION

- 3.1 There is no compelling reason to not consult on this matter.

4.0 BACKGROUND

- 4.1 In July 2020 the government published its document Statutory Taxi and Private Hire Vehicle Standards, available to view in full

via [this link](#). Pages 38 - 39 cover Guidance on the implementation of CCTV in taxis and private hire vehicles and is attached to this report as Appendix A.

- 4.2 The document was issued by virtue of the Policing and Crime Act 2017 and requires that licensing authorities 'have regard to' the document when exercising their licensing functions.
- 4.3 Because of the standards document, the committee considered several policy amendments on 25 November 2020, including a later consultation on CCTV and these were formalised after a period of consultation on 24 February 2021.
- 4.4 The standards document does not require licensing authorities to support installation of CCTV, instead, it expects them to consider the matter and consult. We can choose not to consult but must identify a compelling reason not to.
- 4.5 Current council policy permits CCTV in licensed vehicles in line with legislative requirements, but it does not mandate it.
- 4.6 Current crime data shows a low level of risk regarding passengers and drivers. We have recently signed up to the DBS multiple check facility whereby DBS certificates are checked on a weekly basis with discrepancies leading to further investigation and ultimately, suspension or revocation.
- 4.7 A licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles will be responsible for the data – the data controller. That would have resource implications for the council while the purchase of CCTV systems will have cost implications for vehicle proprietors.
- 4.8 Consequences to the council will include the following, although the additional costs could be recovered from licence holders:
 - Purchase & maintenance of equipment allowing the council to access footage.

- Training of vehicle inspectors to verify CCTV installation plus additional time to test vehicles.
- Additional officer time incurred in obtaining and viewing footage for investigation purposes.
- Training of proprietors/drivers in their data protection obligations (as part of our responsibility as Data Controller for the CCTV footage).
- Additional officer time incurred in obtaining and viewing footage from vehicles where requested under data protection laws by anyone who is subject to recording (for any purpose whatsoever).

4.9 A current estimate for the installation of a CCTV system meeting the required standards is in the region of £500 - £800. This cost would be borne by the licence holder.

4.10 The Information Commissioners (ICO) view is that in most instances continuously recording CCTV in a taxi or private hire is unlawful. Capturing people on video is considered extremely intrusive and is subject to strict data protection laws (GDPR). Cameras should only, therefore, be turned on when on a job.

4.7 The Surveillance Camera Code of Practice, issued by the Home Office, advises 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;
- proportionate;
- effective, and;
- compliant with any relevant legal obligations

4.8 There is understandable concern among both professionals and members of the public regarding safety in licensed vehicles, particularly when considering situations such as that in

Rotherham in recent years, but the system of taxi regulation in Chesterfield has been sufficiently robust to deal efficiently with any concerns or breaches over the years.

- 4.9 Recent crime data obtained from the police shows a low level of risk when travelling in a Chesterfield taxi or private hire vehicle. Information from the police shows that of 20 crimes recorded since 1 July 2021 where the word 'taxi' was mentioned, 8 were for non-payment of the fare, 6 had the driver as the victim of damage or similar, 4 occurred in a queue or booking office and 2 identified the driver as a suspect. Of those 2 crimes, one involved an allegation of inappropriate language to a passenger with learning difficulties and the other alleged the driver pushed a person away from the vehicle.
- 4.10 If CCTV is mandated the council would also, under section 33(5) of the Protection of Freedoms Act 2012, assume the role and responsibility of 'System Operator'.
- 4.11 This role requires consideration of all guiding principles in this code. The failure to comply with these principles may be detrimental to the use of CCTV evidence in court as this may be raised within disclosure to the Crown Prosecution Service.
- 4.12 It is a further requirement of data protection law that before implementing a proposal that is likely to result in a high risk to the rights and freedoms of people, an impact assessment on the protection of personal data shall be carried out.
- 4.13 All recordings made must be secure and can only be accessed by those with legitimate grounds to do so. This would normally be the police if investigating an alleged crime or the licensing authority if investigating a complaint or data access request. Encryption of the recording to which the licensing authority, acting as the data controller, holds the key, mitigates this issue and protects against theft of the vehicle or device.

- 4.14 All passengers must be made fully aware if CCTV is operating in a vehicle. Given that audio recording is considered to be more privacy intrusive, it is even more important that individuals are fully aware and limited only to occasions when passengers (or drivers) consider it necessary. The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves.
- 4.15 Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 A full equalities impact assessment has not been completed at this stage, but if CCTV is mandated the council would have to conduct a full Data Protection Impact Assessment.

6 RISK MANAGEMENT

- 6.1 A full risk management assessment has not been completed at this stage, but the issues of risk and proportionality are outlined in the body of the report.

7.0 RECOMMENDATIONS

- 7.1 Members determine the scope of any consultation on CCTV in taxis and private hire vehicles.

More information about this report is available from Trevor Durham - Licensing Manager on 01246 345203 or trevor.durham@chesterfield.gov.uk

Appendix A

CCTV Guidance – Statutory Taxi & Private Hire vehicle standards

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

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

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

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

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

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

It is a further requirement of data protection law that before implementing a proposal that is likely to result in a high risk to the rights and freedoms of people, an impact assessment on the protection of personal data shall be carried out. The ICO recommends in [guidance](#) that if there is any doubt as to whether a Data Protection Impact Assessment (DPIA) is required one should be conducted to ensure compliance and encourage best practice. A DPIA will also help to assess properly the anticipated benefits of installing CCTV (to passengers and drivers) and the associated privacy risks; these risks might be mitigated by having appropriate privacy information and signage, secure storage and access controls, retention policies, training for staff how to use the system, etc. It is essential to ensure that all recordings made are secure and can only be accessed by those with legitimate grounds to do so. This would normally be the police if investigating an alleged crime or the licensing authority if investigating a complaint or data access request. Encryption of the recording to which the licensing authority, acting as the data controller, holds the key, mitigates this issue and protects against theft of the vehicle or device. It is one of the guiding principles of data protection legislation, that personal data (including in this context, CCTV recordings and other potentially sensitive passenger information) is handled securely in a way that 'ensures appropriate security', including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

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

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