


22 January 2020

Report of	Licensing, Food and Safety Manager	Author	Jon Ruder
Title	Draft CCTV Policy for consultation		 282840
Wards affected	Not applicable		

1. Executive Summary

- 1.1 The report seeks approval, for consultation purposes, of the draft Hackney Carriage/Private Hire CCTV Policy.

2. Recommended Decisions

- 2.1 That the proposed draft CCTV Policy be approved to enable the formal consultation process to begin.
- 2.2 That a three-month consultation period be agreed.

3. Reasons for the Decision

- 3.1 The introduction of CCTV will help to address the matter of driver vulnerability and the safeguarding of passengers. It will assist in the investigation of complaints and help the Council to fulfil the enduring statutory obligation placed upon it to ensure that drivers remain fit and proper to hold a licence.

4. Alternative Options

- 4.1 Not to proceed with the implementation of CCTV in the Council's licensed hackney carriage and private hire vehicles.

5. Supporting Information

- 5.1 The Council's Hackney Carriage and Private Hire Licensing Policy came into effect in January 2019 following a period of extensive consultation. At the time of the original consultation in 2017 a draft Policy in relation to CCTV in hackney carriage and private Hire vehicles (licensed vehicles) was included.
- 5.2 In the light of the feedback from the consultation the Council determined to remove the CCTV element from the Policy to enable further investigations into its feasibility and cost to take place and to allow the rest of the Policy to be brought into effect without delay.
- 5.3 Work on CCTV has now been completed; the points raised during the last consultation exercise have been considered in the formulation of the Policy. The proposed policy and specification are attached at Appendix 1.

6. Aim and Purpose

- 6.1 In considering the proposed introduction of CCTV in its licensed vehicles the Council has drawn not only on its experience and that of its drivers and operators in the Borough but also on the framework provided by the Information Commissioner Office (ICO) and the findings of the Government's Task and Finish Group which focussed on a safer and more robust system of licensing for hackney carriage and private hire vehicles.
- 6.2 The Information Commissioner Office CCTV Code of Practice recommends completion of an impact assessment to ascertain whether the installation of CCTV is justified, and its use proportionate. The use of CCTV requires a strong justification and must be kept under regular review.
- 6.3 The Council has had regard to its own experience and the safeguarding challenges found in the Borough which support the recommendation to introduce mandatory CCTV in all its licensed vehicles. The Council completed its mandatory safeguarding training for all licensed drivers and operators in October 2019. The Council provided over 30 sessions and at each session those in attendance reported common concerns; the key theme that emerged was a licensed driver's vulnerability in carrying out their work. The concerns raised in relation to safeguarding of both drivers and passengers demonstrate that the requirement to have CCTV in all licensed vehicles is a proportionate decision when considering the risks identified.
- 6.4 The Committee will be aware from frequent reports in the press and elsewhere of the rising tide of child sexual exploitation, human trafficking, criminal exploitation, drug trafficking and domestic abuse; all of which are found in the Borough. It will also be aware of a number of high-profile safeguarding cases in other areas of the Country which has underlined the need for safeguarding issues to be formally addressed within the Council's hackney carriage/private hire licensing process of which the CCTV Policy would be a part.
- 6.5 Evidence drawn from complaints made to the Council demonstrates that sometimes complaints cannot be resolved because it is often the word of one person against another. This is an unsatisfactory outcome for all parties and makes it difficult for the Council to fulfil the enduring statutory obligation placed upon it to ensure that drivers remain fit and proper to hold a licence.

- 6.6 The Council recognises that licensed drivers are a valuable asset to the Borough and the safety of its licensed drivers is a key concern; this concern must be considered alongside the overriding objective in taxi and private hire licensing of the safety of the travelling public. It must be borne in mind that no other licensing regime puts an individual in such complete control of members of the public and that once the door closes the driver is alone with members of the public of whom they have no prior knowledge of their character or propensity to violence. The introduction of CCTV will provide a safer environment for both drivers and passengers by deterring and preventing the occurrence of crime; reducing the fear of crime; assisting the Council and Police in investigating incidents of crime; and assisting insurance companies in relation to motoring claims.
- 6.7 The Institute of Licensing have commented, in their recent survey on in-vehicle CCTV, that “CCTV is a clear safety and safeguarding tool, protecting both passengers and drivers. There isn’t much if any dispute about this from local authorities or industry organisations as far as we are aware and that while only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers”. In addition, the evidential benefits of CCTV may increase the level of reporting of sexual offences. According to the Crime Survey for England and Wales only 17% of victims report their experiences to the police, 28% of rape or sexual assault victims indicated that a fear they would not be believed as a factor in them not reporting the crime. The evidential benefits CCTV could provide are therefore an important factor when considering CCTV in vehicles”.

7. Taxi and Private Hire Vehicle Licensing – Steps towards a safer and more robust system

- 7.1 Since the Committee last considered the matter of CCTV the mandatory introduction of cameras in licensed vehicles has been recommended by a Task and Finish Group commissioned by the Minister of State at the Department of Transport. The report was published on 24 September 2018 and the relevant paragraphs are set out below –

4.8 The Group received a number of submissions and heard from witnesses about the benefits of having CCTV in taxis and PHVs. There were numerous positive comments regarding the potential benefits that CCTV might provide to both passengers and drivers. The vast majority of taxi and PHV passengers receive a good and safe service but the few drivers that abuse their position of trust undermine public confidence in passenger safety. CCTV can reaffirm or increase passenger confidence.

4.9 CCTV would not just protect passengers. In England and Wales, approximately 53% of taxi and PHV drivers are non-white, a much higher than average percentage of the workforce. The Group heard from the United Private Hire Drivers that 50% of drivers it surveyed had been threatened or assaulted and that 57% had been racially abused while working.

4.10 Where both cameras and audio recording is used, those who verbally and physically abuse drivers would do so knowing that the attack would be recorded, providing invaluable evidence to enforcement agencies. There are also incidents of false allegations being made against drivers, and CCTV evidence can protect drivers from potentially losing their licence and their livelihood.

4.11 Only a small number of licensing authorities in England currently require CCTV in their licensed vehicles; however, there is a strong case for having CCTV in taxis and PHVs, and licensing authorities which do not already mandate CCTV

should do so. The concern most commonly raised is the costs of installing and maintaining CCTV systems. These do not however appear to be unreasonable for owners of licensed vehicles to bear given an assumed operational life of a system and the potential for reduced damage to the vehicle. The majority of taxis and PHV are owner driven - these could benefit from reduced abuse and assaults by passengers, reduced fare evasion and potentially increased passenger usage through greater confidence in the sector.

4.12 It is however not just the driver and passenger that CCTV can benefit. Licensing authorities are better able to make an informed decision whether to take no action, suspend or revoke a licence following a complaint. This evidence can be used at court should the driver appeal a decision, and it may even prevent the driver guilty of misconduct from launching an appeal. Society as a whole benefits from increased protection from crime.

4.13 Yet mandating CCTV in vehicles will incur extra cost for many small businesses, the vast majority of drivers currently consider as such. Recognising the benefits to society, ways of helping with individual and small business costs should be seriously explored.

7.2 The report made the following recommendations –

Recommendation 17

In the interests of passenger safety, particularly in the light of events in towns and cities like Rochdale, Oxford, Newcastle and Rotherham, all licensed vehicles must be fitted with CCTV (visual and audio) subject to strict data protection measures. Licensing authorities must use their existing power to mandate this ahead of inclusion in national minimum standards. To support greater consistency in licensing, potentially reduce costs and assist greater out of area compliance, the Government must set out in guidance the standards and specifications of CCTV systems for use in taxis and PHVs. These must then be introduced on a mandatory basis as part of national minimum standards.

Recommendation 18

As Government and local authorities would benefit from a reduction in crime in licensed vehicle both should consider ways in which the costs to small businesses of installing CCTV can be mitigated.

8. Audio recording

- 8.1 At this time, continuous audio recording is not supported by the Information Commissioners Office (ICO) and in the light of this the Policy is aligned with the current position of the ICO to permit the use of audio recording by way of a panic button only; this button would be at the driver's control. This would mean that the driver was able to turn off CCTV recording when using the vehicle for private use (accepting that the vehicle is never, in legal terms, a private vehicle).
- 8.2 The position in relation to audio recording is however a matter of dispute currently and therefore it is suggested that this matter be revisited in the event of a change in the stance taken on voice recording. This view is taken because, having considered all the evidence in relation to the introduction of CCTV and that fact that once licensed a vehicle is always licensed, it is considered that audio recording should take place at all times alongside the recording of images. This would provide a constant deterrent and ensure the context to disputes is always available. The privacy of the driver and family

members is protected as the Council and other enforcing authorities can only request footage in specific circumstances.

9. The Surveillance Camera Code of Practice

9.1 The code of practice requires that regard is given to 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.

The aim is to provide a safer environment for both drivers and passengers by deterring and preventing the occurrence of crime; reducing the fear of crime; assisting the Council and Police in investigating incidents of crime; and assisting insurance companies in relation to motoring claims.

Safeguarding is a significant concern in the case of licensed vehicles and drivers. The Institute of Licensing in its recent consultation on the issue of CCTV in licensed vehicles has commented that safeguarding is not simply about children and vulnerable adults – “Take a vehicle and put 2 people inside. If either person is so inclined, the other is vulnerable – to a greater or lesser extent as the case may be. CCTV with continuous visual and audio recording and clear warning signs within the vehicle, may be the best protection / deterrent available, providing the driver cannot a) turn it off; or b) edit the recorded material, in addition, while the duty of local authorities is primarily to protect the public (and there is no other circumstances in licensing where an individual is potentially so vulnerable), the industry would argue that licensed drivers are statistically more likely to be subject to abuse / attack”.

The Council through an analysis of the complaints investigated; information requests from the Police; and the information shared at the safeguarding training sessions is satisfied that there is an overwhelming need for the introduction of CCTV in licensed vehicles.

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.

CCTV data will not be requested unless there is a suggestion of crime or other concern warranting investigation having taken place. The Police and any other investigating authority will only be able to view the footage by submitting a written request to the Council (as the data controller) for the purpose of investigating the offence/allegation.

The entire Hackney Carriage/Private Hire Licensing Policy, of which the CCTV Policy, is a part will be regularly reviewed to ensure its continued relevance.

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.

All vehicles fitted with CCTV will carry signs to notify passengers of its use. The Licensing Team will be the published point of contact 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.

The Council is the data controller and as such is responsible for the collection and storage of all data.

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

The Council's Policy on CCTV sets out the rules governing its installation. This will be made available to all parties with an interest and also made available on the Council's website.

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

Images will be erased on a rolling 28-day programme. Information will only be stored where it is needed for evidence purposes and once the investigation/case has been disposed of, the images will be destroyed.

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.

Access will only be given to the members of the Licensing Team and any other requests to view footage will have to satisfy the tests the Council has put in place. All requests to view footage must be made in writing in advance.

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.

The Council is satisfied that its Policy and accompanying technical specification is specific to, and meets the needs of, its aim to provide a safer environment for drivers and passengers.

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

The Council, as the data controller, will be the only body able to download data via an encrypted cable. The computer on which the data will be used will be a standalone computer without internet access and suitably encrypted.

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.

The CCTV Policy, which forms part of the main Hackney Carriage/Private Hire Licensing Policy, and its implementation will be subject to periodic monitoring at no more than 4 monthly intervals for the first year of its implementation and thereafter at 6 monthly intervals.

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.

The Council is satisfied that its Policy and accompanying technical specification meet the needs of this requirement.

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.

The Council will match the vehicle identification mark and plate number to the CCTV to ensure that any footage recorded can be accurately attributed to the correct vehicle and driver. This will be subject to constant update.

10. Essex County Council

- 10.1 Questions were raised in the initial consultation on the taxi policy regarding the use of CCTV in vehicles used for school transport. The view of Essex County Council, within whose remit passenger transport lies, has been sort and it has responded that it supports the use of CCTV in taxis provided it is done within the guidelines of the ICO Code of Practice.

11. Data Controller

- 11.1 The Council will be the Data Controller for all the footage recorded by CCTV in its licensed vehicles. All requests to view footage, including subject access requests, must be submitted to the Council. Drivers and operators will not be able to download or view and footage recorded.

12. Procurement

- 12.1 Once the consultation process has been completed, if the Committee determine to go ahead with the introduction of CCTV in its licensed vehicles, the specification will be made available to enable any suppliers of such systems to approach the Council with a view to being placed on a list of providers which can then be used by the trade to source an appropriate system.

13. Implementation

- 13.1 For the purposes of consultation, the following programme is suggested for the installation of CCTV in licensed vehicles
- The Council will identify a date on which the requirement for taxi cameras will become effective – this date will be known as the ‘CCTV requirement effective date’. After this date, a licence will only be granted to new vehicles (put on existing plates) and new plates for vehicles, if the vehicle is fitted with a CCTV system that meets the council’s requirements.
 - This requirement will not apply to vehicles that had a licence in effect on the day before the ‘CCTV requirement effective date’.

- Licensed vehicles with licences that expire at a point up to six months from the 'CCTV requirement effective date' will be required to have a suitable taxi camera fitted within six months of the effective date.
- Vehicles that are aged over 11 years on the date that the renewed licence takes effect are exempt from this requirement (14 years in the case of purpose-built wheelchair accessible vehicles) – although a taxi camera may be fitted if the vehicle proprietor wishes to do so.
- Licensed vehicles with licences that expire at a point between six and twelve months from the 'CCTV requirement effective date' will be required to have a suitable taxi camera fitted by the date that the vehicle licence expires. Vehicles that are aged over 11 years on the date that the renewed licence takes effect are exempt from this requirement (14 years in the case of purpose-built wheelchair accessible vehicles) – although a taxi camera may be fitted if the vehicle proprietor wishes to do so.
- The Council is adopting this approach in order to reduce the impact on taxi camera system suppliers and installers, and also to ensure that licence holders have sufficient time to source, purchase and install a system prior to the requirement taking effect.
- It is expected that suppliers and installers will be able to meet demand, however this will be monitored and the approach reviewed if necessary.

14. Penalty Point Scheme

14.1 The following points are to be made to the Council's Penalty Point Scheme –

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| 113 | Failure to comply with the requirements of the Council's Policy on CCTV in Licensed vehicles | 6 Points |
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15. Financial Implications

- 15.1 The installation of cameras in licensed vehicles will be an additional cost to the licence holders. The systems vary in price but can be claimed back as a business expense through HMRC. In view of the safeguarding matters identified, the Council is investigating match funding to help offset the costs.
- 15.2 The Council is already registered as a Data Controller with the Information Commissioner, and there are no additional registration costs that would be required to be paid by the Council. There will be additional costs in the region of £2,000 for the 2 computers and encrypted cable required for the viewing and download of data.

16. Consultation

- 16.1 It is intended to consult with licence holders, Essex Police, and other interested parties and to enable the public to comment by publishing notification on the Council's website.
- 16.2 At the end of the 3-month consultation period the representations received will be considered by the Licensing Committee. In the event that the Committee determine to introduce CCTV for all licensed vehicles, the Policy will be submitted to full Council for approval.

17. Strategic Plan References

- 17.1 The Policy aims to contribute to the Council's vision of the Borough by ensuring that the licensed trade plays a significant role not only in the Borough's transport strategy but also in helping to promote Colchester and thereby enhancing our reputation as a destination and encouraging further investment.

18. Publicity Considerations

- 18.1 If Members approve the proposed draft Policy, it is intended that this will be the subject of a three-month public consultation and the Policy will be available to view and download from the Council's website.

19. Equality, Diversity and Human Rights Implications

- 19.1 The draft Policy has been developed in accordance with and taken account of, all relevant legislation and national and local strategies.

20. Community Safety Implications

- 20.1 The policy deals with the protection of children and vulnerable adults.

21. Health and Safety Implications

- 21.1 There are no known direct public health and safety issues which might arise from the adoption of the revised Policy.

22. Risk Management Implications

- 22.1 A flexible yet robust revised Policy will continue to provide both the Council with a sound basis for decision making.

23. Environmental and Sustainability Implications

- 23.1 There are no known direct environmental and sustainability implications which might arise from the adoption of the revised Policy.