

SLOUGH BOROUGH COUNCIL

REPORT TO: Licensing Committee **DATE:** 20th October 2016

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WARD(S): ALL

PART I

FOR CONSIDERATION AND DECISION

GUIDELINES FOR INSTALLATION OF AUDIO AND VISUAL EQUIPMENT IN LICENSED VEHICLES (CCTV)

1. **Purpose of Report**

For Members to consider the proposals for Guidelines for the installation of CCTV in licensed vehicles.

2. **Recommendation**

That the Committee is requested to approve the Guidelines for a licence holder wishing to install CCTV in a licensed vehicle.

3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

It is recognised that CCTV in licensed vehicles can assist in the prevention of crime and disorder, and can be a useful tool when investigating offences. However, the Information Commissioners Office has clearly stated that any compulsory or mandatory requirement for CCTV in licensed vehicles may be contravention of Article 8 the European Convention of Human Rights and a breach of the Data Protection Act.

Having said that, each local authority is under a duty to ensure that there is appropriate guidance in place for those licensed vehicle proprietors wishing to install CCTV in their vehicles.

3a. **Slough Joint Wellbeing Strategy Priorities –**

The approval of the Guidelines on CCTV in licensed vehicle will provide the necessary advice regarding the vehicle proprietors responsibility to comply with the ICO – Codes of practice.

The approval of the Guidelines will contribute to the wellbeing priorities of:

- Economy and Skills

- Safer Communities

Cross-Cutting themes:

The approval of the Guidelines will contribute to the cross cutting theme of **Improving the image of the town.**

3b. **Five Year Plan Outcomes**

The report outlines the reasons for the Guidelines on CCTV in licensed vehicles and of the advice by the ICO on making this a mandatory requirement.

The approval of the Guidelines will contribute to the Five Year Plan with the specific outcome of:

- Slough will be one of the safest places in the Thames Valley.

4. **Other Implications**

(a) Financial

There are no financial implications involved in the proposed action.

Risk Management

Recommendation	Risk/Threat/Opportunity	Mitigation(s)
As detailed in Point 2.	Approving the proposed new policy will ensure that where vehicle proprietors have CCTV installed in their vehicle they will comply with the ICO's Codes of Practice.	The guidelines are only advisory for vehicle proprietors as there is no mandatory requirement in place for CCTV in licensed vehicles.

(b) Human Rights Act and Other Legal Implications

Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 apply:

Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of licence and shall not be deprived of the possession except in the public interest

Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

(c) Equalities Impact Assessment

An Equality Impact assessment has been completed which shows no adverse or negative impacts of opportunity for any equality group or for any reason.

5. **Supporting Information**

- 5.1 CCTV must comply with the Data Protection Act 1998 which regulates the processing of information relating to individuals, including the obtaining, holding, use or disclosure of such information. The installation and operation of in-vehicle CCTV must comply with the requirements of the Information Commissioner's Office (ICO) CCTV Code of Practice. This includes registration with the ICO (this is an annual registration with a fee), ensuring that recorded images are securely stored on the system, and displaying appropriate signage within the vehicle notifying passengers of the presence of CCTV. Continuous audio recording (of passengers' conversations) in licensed vehicles is not permitted in licensed vehicles, as it is considered disproportionate by the ICO and First Tier Tribunal.
- 5.2 Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to do all that it reasonably can to prevent crime and disorder in its area. Whilst CCTV can of course assist in the prevention of crime and disorder, and can be a useful tool when investigating offences, the issue of making CCTV compulsory or mandatory must be evidenced and fully justifiable.
- 5.3 There are several other important matters in terms of in-vehicle CCTV. Licence holders must not download any images onto any kind of portable media device (such as CDs or memory sticks) for the purpose of general storage outside the vehicle. Further, the images must be protected using approved encryption software which is designed to guard against the compromise of the stored data, for example, in the event of the vehicle or equipment being stolen as recommended by the ICO.
- 5.4 The best practice guidance on driver and vehicle licensing issued by the Department for Transport in February 2010 refers to personal security and the use of CCTV in vehicles. For Members' information the guidance states;

'The owners and drivers of vehicles will often want to install security measures to protect the driver. Local licensing authorities may not want to insist on such measures on the grounds that they are best left to the judgement of the owners and drivers themselves. But it is good practice for licensing authorities to look sympathetically on - or actively to encourage - their installation. They could include a screen between driver and passengers, or CCTV. Care however should be taken that security measures within the vehicle do not impede a disable passengers' ability to communicate with the driver. CCTV can be both a deterrent to would-be trouble makers and be a source of evidence in the case of disputes between drivers and passengers and other incidents. There is a variety of funding sources being used for the implementation of security measures, for example from community safety partnerships, local authorities, and drivers themselves.'

- 5.5 Some local authorities have implemented a mandatory requirement for CCTV in licensed hackney carriage and private hire vehicles, which resulted in intervention by the ICO's office with notices being served, as this could be a breach of the Data Protection Act. Two such councils are Oxford City and Southampton City.
- 5.6 With regard to mandatory or blanket conditions for CCTV in licensed vehicles, the ICO stated that the decision came down to the essential question of whether the

councils policy was in contravention of Article 8 of the European Convention of Human Rights and whether the policy was justified as a proportionate mean of achieving a legitimate aim.

- 5.7 The ICO has stated that section 1.5 of the ICO – Codes of Practice talked about the responsibilities of a local authority when exercising licence conditions. The ICO has also stated that local authorities are relevant authorities and must show the code due regard. If surveillance camera systems are to be mandated as part of the conditions of the licence, then it will require a strong justification and must be kept under constant review.
- 5.8 A copy of a speech by the Surveillance camera Commissioner to the National Taxi Association AGM is attached at **Appendix A**. A copy of a similar article also covering the Surveillance Camera Commissioner’s speech is attached at **Appendix B**.
- 5.10 In light of the advice by the ICO, local authorities should ensure that there is appropriate guidance in place for those licensed vehicle proprietors wishing to install CCTV in their vehicles.
- 5.11 There is no evidence from this local authority that there is strong justification for mandatory or compulsory installation of CCTV in licensed vehicles.
- 5.12 As such, the vehicle proprietors, if wishing to install CCTV in their licensed vehicles are under a legal duty to comply with the ICO’s Code Practice. Ultimately the responsibilities are theirs, therefore this guidance will ensure that this local authority provides all advice and guidance to ensure that the vehicle proprietors comply the ICO’s Code of Practice. A copy of the proposed Guidelines for Installation of Audio and Visual Recording Equipment in Licensed Vehicles (CCTV) is attached at **Appendix C**.
- 5.13 Although a formal consultation was not carried out as these are guidelines and not formal policy, all private hire and hackney carriage drivers and operators were written to as part of a consultation process on other matters and were provided with information on and a copy of the proposed guidelines for the installation of CCTV in licensed vehicle.

6. Comments of Other Committees

None.

7. Conclusion

Taking into account the comments by the Surveillance Camera Commissioner and the ICO Codes of Practice the Committee is requested to approve the Guidelines for licence holders wishing to install CCTV in licensed vehicle.

8. Appendices Attached

‘A’ - Copy of Surveillance Camera Commissioners Speech to the National Taxi Association AGM

'B' - Extract from Local Government Lawyer relating to CCTV in Taxis.

'C' - Guidelines for Installation of Audio and Visual Recording Equipment in Licensed vehicles

9. Background Papers

None.