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By Philip Kolvin QC



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ICO warns over CCTV in taxis as council issued with enforcement notice

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The Information Commissioner has fired a warning to local authorities that they must consider all legal obligations on them before requiring the installation of CCTV in taxis and private hire vehicles.

Christopher Graham added that audio recording of conversations should also be "very much the exception, rather than the rule".

The warning came after the Information Commissioner's Office served an enforcement notice on Southampton City Council ordering it to stop the mandatory recording of passengers' and drivers' conversations in the city's taxis.

The local authority, which has until 1 November to comply with the notice, expressed disappointment at the ICO's move and said it would examine its options, including an appeal.

Since August 2009, Southampton has required all taxis and private hire vehicles to install CCTV equipment.

The ICO has decided that this policy breaches the Data Protection Act, taking the view that the recording of all conversations was disproportionate "given the very low number of incidents occurring compared to the number of trouble free taxi journeys".

The watchdog's move comes just weeks after Oxford City Council suspended implementation of a similar policy to that put in place by Southampton.

The ICO took preliminary enforcement action, claiming that the recording of conversations in taxis in Oxford would also breach the DPA.

Information Commissioner Christopher Graham said: "By requiring taxi operators to record all conversations and images while the vehicles are in use, Southampton City Council have gone too far.

"We recognise the council's desire to ensure the safety of passengers and drivers but this has to be balanced against the degree of privacy that most people would reasonably expect in the back of a taxi cab. It is only right that the privacy of drivers and passengers is respected."

Graham argued that this was particularly important as many drivers would use their vehicles outside work.

"While CCTV can be used in taxis, local authorities must be sensible about the extent to which they mandate its use, particularly when audio recording is involved," he said.

The Information Commissioner added: "We hope this action sends a clear message to local authorities that they must properly consider all the legal obligations on them before requiring the installation of CCTV or similar equipment and that audio recording should be very much the exception, rather than the rule."

The ICO said that:

- For CCTV equipment in taxis, images should only be recorded "where it is clearly justifiable";
- Audio recordings should only be made on very rare occasions, "for example where there are a high number of serious incidents and where recording is triggered due to a specific threat in a taxi cab".

Cllr Jacqui Rayment, Southampton's Deputy Leader, said: "We are disappointed with this decision as it is about safety for both the drivers and passengers. Data is encrypted, kept very securely and only downloaded if there is a specific complaint against a driver or if the police request access in order to investigate an alleged offence.

"When we received the preliminary enforcement notice in May the council responded to the Information Commissioner's concerns about privacy but these reassurances have not been taken on board in this judgement."

She added: "We are currently taking legal advice on the next steps to take, including appeal."

A copy of the enforcement notice can be viewed here. Failure to comply with an enforcement notice is a criminal offence.

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