

North East Derbyshire District Council

Licensing Committee

22 October 2020

Mandatory CCTV in Taxis

Report of the Solicitor

This report is public

Purpose of the Report

- To review, and approve for public consultation, amendments to the Council's Taxi Licensing Policy introducing mandatory CCTV in licensed taxis

1 Report Details

- 1.1 In 2018 the Council approved a taxi licensing policy which was at the leading edge of best practice, regional standards and Government guidance in force at that time.
- 1.2 In recent years some local authorities such as Rotherham MBC have introduced a requirement for mandatory CCTV in licensed taxis, in response to local issues where CCTV could make a difference. In 2019 officers began to assess the basis on which this Council could introduce such a measure on a preventative basis, i.e. that it would deter criminal behaviour and protect both the public and those in the taxi trade
- 1.3 As part of that work officers explored the complex legal requirements and restrictions which apply to a policy of this type. Officers have also carried out research on those authorities where such a measure has been introduced.

The initial findings can be summarised as follows:

- As of 2019 there were only 4% of local authorities (13 councils) with a mandatory requirement for CCTV. These are predominantly cities or metropolitan boroughs and/or areas where they have experienced significant levels of serious criminal activity involving taxis.
- There is a strict legal framework applicable to CCTV in taxis, based on administrative law and guidance issued by the Information Commissioner's Office (ICO) and the Surveillance Camera Commissioner (SCC). Details are set out below.
- There are 2 options from a data protection perspective: (1) each vehicle proprietor can be responsible for the footage and act as data controller, and if the Council or other persons wish to view the footage they must request it from the proprietor; or (2) the Council acts as data controller, having greater control

over the footage but with it taking on responsibility for the safe and secure management of that data.

- A number of CCTV systems are in use across the country where required by those licensing authorities. The model used in most cases is to generate a suitable set of technical specifications, with subsequent identification of available systems which meet those requirements. Within these parameters the choice of system lies with the vehicle proprietor.
- Some vehicle proprietors/private hire operators are rolling out CCTV in their vehicles voluntarily, albeit using systems of their own choice.
- The Information Commissioner's Office has issued preliminary enforcement notices on Portsmouth and Southampton councils in relation to problems with their respective policies on continuous recording of images. It is expected that these will eventually end up being challenged in court too. This underlines the importance of being precise and careful in determining the form and extent of policy a council can implement and/or the level of evidence required to justify such a policy.
- It is recognised that while problems with serious crime, CSE etc are not evidenced within the district, they have occurred elsewhere in the country and one advantage of CCTV is it can act as a deterrent.

1.4 The key legal requirements are that the Council has reasonable grounds for introducing the policy. Any such policy must also operate in a way that does not cause undue interference with the human rights of taxi occupants, and work in a manner compatible with the requirements of the ICO and SCC.

1.5 In July 2020 the Government issued their revised Statutory Taxi & Private Hire Vehicle Standards. This guidance, which the Council has a statutory obligation to have regard to, clearly demonstrates that authorities are expected to introduce mandatory CCTV in taxis unless there is a compelling local reason not to. From a legal perspective this presumption in favour of a suitable policy provides sufficient reasonable grounds for its introduction.

1.6 In considering whether to introduce this policy the authority must consider if there is a compelling local reason not to. It is acknowledged that there is no evidence of a serious existing problem which would require the imposition of mandatory CCTV (no evidence of NEDDC taxis being used in organised crime or child sexual exploitation whether in the region or further afield). Nor have there been more than a handful of cases over recent years (perhaps one every year or two) where CCTV would have had a significant impact on the gathering of evidence of offences. However, in counterbalance to this the preventative benefits and the value to public safety must be weighed by the authority. From a legal perspective this evidence doesn't obviously amount to a compelling reason or otherwise, so it is a matter of judgement for members as to whether this constitutes a reason not to proceed with the policy.

1.7 Requiring the installation of a sufficiently complex CCTV system would address many of the concerns of the ICO and SCC in respect of intrusion. Audio recording would have to be limited in scope, for example activated only in emergencies. It would also necessitate the facility for the vehicle proprietor to disable the system when it is being used for private purposes. However complex systems are costly (£500-800) and the Council must be prepared for concerns from the trade of the additional financial burden they will have to incur at a time of national economic difficulty.

- 1.8 Introduction of a CCTV policy will have resource implications for the Council. While the purchase of CCTV systems will be a burden which falls on vehicle proprietors there will be consequences for the authority including:
- Purchase and maintenance of equipment allowing Council officers to access footage
 - Training of vehicle inspectors to verify CCTV installation plus additional time taken to test vehicles
 - The additional officer time incurred in obtaining and viewing footage from vehicles for investigation purposes
 - Training of proprietors/drivers in their data protection obligations (as part of our responsibility as Data Controller for the CCTV footage)
 - The 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)
- 1.9 In deciding whether to take this policy forward members should be aware that the eventual implementation of the policy will need those resource implications to be resolved. Members should also consider that elements of the additional resource burden would be recoverable from the licence holders via an increase in licence application fees, which would be an additional burden to applicants over and above the cost of the CCTV system itself.
- 1.10 The attached policy proposals at Appendix A reflect the above legal requirements and sets out criteria for a system that maintains all appropriate safeguards. The policy incorporates measures to protect privacy and human rights, maintaining compliance with guidance from the ICO and Surveillance Commissioner. Detailed impact assessments on privacy, which are an ongoing process during policy development and implementation, have been carried out and the current version can be found at Appendix B. In addition, an update to the Equality Impact Assessment for the overall taxi policy can be found at Appendix C.
- 1.11 In order to progress the policy changes a consultation with the public, the trade and other stakeholders must be undertaken. Member approval is sought to consult on the attached policy proposals, subject to any changes Licensing Committee members may wish to make. Following consultation the responses will be brought back to the Committee members, at which time a decision will be taken on whether to recommend a final policy to Council.
- 1.12 In developing the policy amendment proposals the Council's Communities Scrutiny Committee have been consulted at various stages. The current version attached at Appendix A has been approved by the Scrutiny members. In endorsing this policy Scrutiny members have expressed their overall support for the benefits of the proposals. They have also recommended that the policy is pursued as quickly as possible, while asking that the authority remains aware of, and takes into account, the impact on small businesses in the district of any changes. They have also asked that implementation of the policy is done with clear communication to the trade, to businesses and to residents.

2 Conclusions and Reasons for Recommendation

- 2.1 The attached policy amendments will introduce mandatory CCTV in taxis, with measures incorporated which balance the privacy interests of subjects and ensure security of their data.
- 2.2 In line with the new Government guidance there is a presumption in favour of introducing such a policy unless there is a compelling local reason not to do so. Given the reasons for and against such a policy as set out above, it lies within the discretion of members to determine if there is a reason not to introduce these policy changes.
- 2.3 If members determine that the policy change is justified, the attached proposals reflect best practice and include all relevant safeguards to ensure compliance with legal requirements.

3 Consultation and Equality Impact

- 3.1 Consultation will take place on a draft policy proposal as determined by Licensing Committee members.
- 3.2 Privacy and equality impact assessments have been carried out and are subject to ongoing review.

4 Alternative Options and Reasons for Rejection

- 4.1 The alternative is to leave the current policy unchanged. Given the presumption in favour of mandatory CCTV this can only be justified if there is a compelling local reason to do so. Whether such a reason exists is a matter for members to determine within their discretion.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 As set out in the body of the report.

5.2 Legal Implications including Data Protection

- 5.2.1 As set out in the body of the report.

5.3 Human Resources Implications

- 5.3.1 None

6 Recommendations

- 6.1 That members determine if they wish to take forward the policy proposals or find a compelling local reason not to.
- 6.2 If members agree to proceed, that the attached policy proposal is approved for the purposes of consultation with the public, the taxi trade and with stakeholders.

7 Decision Information

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	No
<p>Has the relevant Portfolio Holder been informed</p>	Yes
<p>District Wards Affected</p>	All
<p>Links to Corporate Plan priorities or Policy Framework</p>	All

8 Document Information

Appendix No	Title
A	DRAFT Taxi Licensing Policy: Hackney Carriages & Private Hire Vehicles (CCTV Supplement)
B	Privacy Impact Assessment & Environmental Health and Licensing Privacy statement: CCTV in licensed taxis
C	Equality Impact Assessment: Taxi Licensing Policy – Addendum CCTV September 2020
<p>Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</p> <ul style="list-style-type: none"> • Statutory Taxi & Private Hire Vehicle Standards 2020 • LGA: Developing an approach to mandatory CCTV in taxis and PHVs • Surveillance Camera Commissioner’s Surveillance Camera Code of Practice • Information Commissioner’s CCTV Code of Practice 	
<p>Report Author</p>	
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Report Reference –