

## **APPENDIX 2 – INTRODUCTION OF CCTV, VOLUNTARY OR MANDATORY**

### **PROPOSED UPDATES AND CHANGES TO THE HACKNEY CARRIAGE AND PRIVATE HIRE POLICY 2016**

The current Hackney Carriage and Private Hire Policy refers to CCTV in Appendix L (Page 103) the current requirement will have to be amended to ensure that it is up to date and meets the following criteria.

#### **OVERVIEW**

The aim of updating the current requirement or introducing a mandatory requirement is to allow for the safe installation and use of CCTV systems in taxis and private hire cars licensed by High Peak Borough Council. In allowing the installation and use of CCTV, the Licensing Authority recognises that it would need to demonstrate that such systems can be used to prevent and detect crime, reduce the fear of crime and enhance the safety of taxi and private hire car drivers, as well as their passengers. In determining a voluntary or mandatory requirement, the Authority would also seek to ensure that the installation and operation of CCTV systems do not compromise the safety of either drivers or passengers or unreasonably interfere with the privacy of members of the public.

#### **DATA CONSIDERATIONS AND DEFINITIONS**

##### **“THE DATA CONTROLLER”**

The Information Commissioner defines a “data controller” as the body which has legal responsibility under the Data Protection Act 2018 for all matters concerning the use of personal data. For the purpose of the installation and operation of a CCTV system in taxis and private hire vehicles, the “data controller” will be the vehicle proprietor and not the driver.

The licence holder, as data controller, will therefore be responsible for ensuring compliance with the requirements of this policy and with all relevant data protection legislation, including the Data Protection Act 1998. The data controller is legally responsible for the use of all images including breaches of legislation.

**Note: If the Authority decides to make this requirement Mandatory, then the Local Authority may be deemed as the data controller and as such additional resources may need to be considered**

##### **“THIRD PARTY DATA PROCESSOR”**

Where a service provider is used for the remote storage of CCTV data they will act as a ‘data processor’. A data processor, in relation to personal data, means any person (other

than an employee of the data controller) who processes data on behalf of the data controller, in response to specific instructions. The data controller retains full responsibility for the actions of the data processor.

- There must be a formal written contract between the data controller and the data processor.
- The contract must contain provisions covering security arrangements, retention/deletion instructions, access requests and termination arrangements. A copy of the contract must be provided to an authorised officer of the Licensing Authority, or to the Police, on reasonable request.

### **GENERAL REQUIREMENTS – INSTALLATION AND OPERATION (DRAFT CONSIDERATION FOR CONSULTATION)**

CCTV systems must not be used to record conversations between members of the public as this is highly intrusive and unlikely to be justified except in very exceptional circumstances.

Wherever possible, the CCTV system should not have any sound recording facility. However, if the system comes equipped with a sound recording facility, then this functionality should be disabled and only capable of being utilised in the following limited circumstances: -

Audio recording will only be justified where the recording is triggered due to a specific threat to driver or passenger safety, e.g., a ‘panic button’ is utilised and must be subject to the

following safeguards: -

- a) Where this audio recording facility is utilised, a reset function must be installed which automatically disables audio recording and returns the system to normal default operation after a specified time period has elapsed.
- b) The time period that audio recording may be active should be the minimum possible and should be declared at the time of submission for approval of the equipment.

In the limited circumstance where audio recording is justified, signs must make it very clear that audio recording is being or may be carried out. CCTV systems installed in taxis and private hire cars will be inspected as part of the vehicle test carried out by the Authority. The installation and operation of a CCTV system must comply with the requirements of the Information Commissioner’s CCTV Code of Practice, which is available at the following address:- <http://www.ico.gov.uk>

- a) All equipment must comply with any legislative requirements in respect of Motor Vehicle Construction and Use Regulations.
- b) All equipment must meet all requirements as regards safety, technical acceptability and operational/data integrity.
- c) All equipment must be designed, constructed, and installed in such a way and in such materials as to present no danger to passengers or to the driver, including impact with the equipment in the event of a collision or danger from the electrical integrity being breached through vandalism, misuse, or wear and tear. In particular, the camera(s) must be fitted safely and securely in such a way that it does not adversely encroach into the passenger area and must not impact on the safety of the driver, passenger or other road users.
- d) All equipment must be installed as prescribed by the equipment and/or vehicle manufacturer installation instructions by a qualified auto-electrician.
- e) The CCTV system must not weaken the structure or any component part of the vehicle or interfere with the integrity of the manufacturer's original equipment.

- f) All equipment must be installed in such a manner so as not to increase the risk of injury and/or discomfort to the driver and/or passengers. For example, temporary fixing methods such as suction cups will not be permitted, or lighting, such as infra-red, which emits at such a level that may cause distraction or nuisance to the driver and/or passengers.
- g) All equipment must be protected from the elements, secure from tampering and located such as to have the minimum intrusion into any passenger or driver area or impact on the luggage carrying capacity of the vehicle.
- h) It is contrary to the Motor Vehicle (Construction and Use) Regulations 1986 for equipment to obscure the view of the road through the windscreen.
- i) Equipment must not obscure or interfere with the operation of any of the vehicle's standard and/or mandatory equipment, i.e. not mounted on or adjacent to air bags/air curtains or within proximity of other supplementary safety systems which may cause degradation in performance or functionality of such safety systems. Viewing screens within the vehicle for the purposes of viewing captured images will not be permitted.
- j) All wiring must be fused as set out in the manufacture's technical specification and be appropriately routed.
- k) The location of the camera(s) installed within the vehicle must be for the purpose of providing a safer environment for the benefit of the taxi or private hire vehicle driver and passengers, and not for any other purpose.
- l) All equipment must be checked regularly and maintained to operational standards, including any repairs after damage.
- m) All system components requiring calibration in situ should be easily accessible.

#### **AUTOMOTIVE ELECTROMAGNETIC COMPATIBILITY REQUIREMENTS (EMC)**

- CCTV equipment must not interfere with any other safety, control, electrical, computer, navigation, satellite, or radio system in the vehicle. Any electrical equipment such as an in-vehicle CCTV system fitted after the vehicle has been manufactured and registered, is deemed to be an Electronic Sub Assembly (ESA) under the European Community Automotive Electromagnetic Compatibility Directive and therefore must meet with requirements specified in that Directive.
- CCTV equipment should be e-marked or CE-marked. If CE marked confirmation by the equipment manufacturer as being non-immunity related and suitable for use in motor vehicles is required.
- Activation of the equipment may be via a number and combination of options, such as – door switches, time delay, drivers' panic button or in the case of incident/event recorder, predetermined G-Force parameters set on one or more axis (i.e., braking, acceleration, lateral forces) and configured to record for a short period of time before the event, during the event and a short period following the event.

#### **SECURITY OF IMAGES**

- All images captured by the CCTV system must remain secure at all times.

- The captured images must be protected using 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. It is recommended by the Information Commissioner that the data controller ensures that any encryption software used meets or exceeds the current FIPS 140-2 standard or equivalent. System protection access codes will also be required to ensure permanent security.

## **RETENTION OF CCTV IMAGES**

The CCTV equipment selected for installation must have the capability of retaining images either:

- within its own hard drive.
- using a fully secured and appropriately encrypted detachable mass storage device, for example, a compact flash solid state card.
- or where a service provider is providing storage facilities, transferred in real time using fully secured and appropriately encrypted GPRS GSM telephone signalling to a secure server within the service provider's monitoring centre.
- Images must not be downloaded onto any kind of portable media device (e.g. CDs or memory sticks) for the purpose of general storage outside the vehicle.
  - The CCTV system must include an automatic overwriting function, so that images are only retained within the installed storage device for a maximum period of 31 days from the date of capture.
- Where a service provider is used to store images on a secure server, the specified retention period must also only be for a maximum period of 31 days from the date of capture.

Where applicable, these provisions shall also apply to audio recordings.

## **USE OF INFORMATION RECORDED USING CCTV**

- Any images and any audio recording should only be used for the purposes described in this policy.
- Requests may be made to the data controller by Authorised Officers of the Licensing Authority, the Police or other statutory law enforcement agencies, insurance companies/brokers/loss adjusters or exceptionally other appropriate bodies, to view captured images, or obtain audio recordings if applicable. The licence holder, as data controller, is responsible for responding to these requests. Police, Authorised Officers of the Licensing Authority, or other law enforcement agencies should produce a standard template request form, setting out the reasons why the disclosure is required. Alternatively, a signed statement may be accepted.

- All requests should only be accepted where they are in writing and specify the reasons why disclosure is required.
- Under the Data Protection Act 2018, members of the public may also make a request for the disclosure of images, but only where they have been the subject of a recording. This is known as a 'subject access request'. Such requests must only be accepted where they are in writing and include sufficient proofs of identity (which may include a photograph to confirm they are in fact the person in the recording).
- Data controllers are also entitled to charge a fee for a subject access request (currently a maximum of £10) as published in the Information Commissioner's CCTV Code of Practice.

### **SIGNAGE**

- All taxis and private hire cars with CCTV must display signage within the vehicle to indicate that CCTV is in operation. The driver must also verbally bring to the attention of the passengers that CCTV equipment is in operation within the vehicle.
- The signage must be displayed in such positions so as to minimise obstruction of vision and to make it as visible as possible to passengers, before and after entering the vehicle.
- In the limited circumstance where audio recording is justified, signs must make it very clear that audio recording is being or may be carried out and this must also be verbally brought to the attention of the passengers.

### **CONTACT DETAILS**

The name and the contact telephone number of the licence holder, as data controller must be included on the sign.

### **SIGNAGE FOR EXTERNAL FACING CCTV SYSTEMS**

Where a CCTV system is installed within the vehicle in order to record incidents outside of the vehicle, it will not be practical to display a sign. Instead, when the CCTV is activated in response to an

incident, the driver of the vehicle must inform the person(s) recorded that their personal data was captured - as soon as practicable after the incident.

They should also be informed of the purpose for which the device has been installed, being driver and passenger safety.

### **COST IMPLICATIONS**

The likely cost of installation of a CCTV system is conservatively around £1,000 per vehicle to ensure that the system proposed could meet the required standard, this would be the case if the requirement was voluntary or mandatory. The Owner of the vehicle/driver would be responsible for the installation cost and ongoing maintenance.