

INVERCLYDE COUNCIL POLICY ON CCTV IN TAXIS

INTRODUCTION

The aim of this policy is to allow for the safe installation and use of CCTV systems in taxis and private hire cars licensed by Inverclyde Council's Licensing Authority where there is a legitimate purpose for the operation of CCTV.

This policy seeks to ensure that the installation and operation of CCTV systems does not:

- (a) unreasonably interfere with the rights and freedoms of members of the public or drivers;
- (b) compromise the safety of drivers and passengers.

This policy does not place a mandatory requirement on the licensed operators of taxis and private hire cars to install CCTV systems in their vehicles.

INSTALLATION OF CCTV FOR LEGITIMATE PURPOSES

The Licensing Authority has determined that CCTV systems can be installed and operated in taxis and private hire cars for the following legitimate purposes:

- preventing and detecting crime
- reducing the fear of crime
- enhancing the safety of taxi and private hire car drivers, as well as their passengers
- assisting insurance companies in investigating motor vehicle incidents and/or to evidence fault in relation to accidents or other related incidents.

For the purposes of this policy, a CCTV system will include any electronic recording device attached to the inside of a taxi or private hire car having the technical capability to capture and retain visual images from inside the vehicle.

Any CCTV system to be fitted in a taxi or private hire car must, as a minimum, meet the requirements of this policy. Only CCTV systems meeting these requirements can be installed into licensed taxis and private hire cars.

Where an operator wishes to install and use a CCTV system, it will be a condition of the taxi or private hire car licence that the requirements of this policy are complied with. Failure to comply with the requirements of this policy could lead to a complaint being made to the Council's General Purposes Board in order to consider the possible suspension of the licence until such time as the equipment meets the necessary requirements or is removed from the vehicle.

THE DATA CONTROLLER

"Data Protection Law" means the law and guidance relative to data protection in force in the United Kingdom including (without limitation) the Data Protection Act 2018, the United Kingdom General Data Protection Regulations ("the UK GDPR") and the Privacy and Electronic Communications (EC Directive) Regulations 2003.

If you install CCTV in your taxi or private hire car then you will be responsible for the equipment and the images captured by that equipment. In relation to the personal data that will be processed, you will be a "data controller".

Data Protection Law defines a "data controller" as the person or body who determines the purpose and means of the processing of personal data.

As a data controller you will be responsible for ensuring you comply with:

1. UK Data Protection Legislation
2. Information Commissioner's guidance on use of CCTV which can be found here, <https://ico.org.uk/for-organisations/guide-to-data-protection/key-dp-themes/guidance-on-video-surveillance-including-cctv/about-this-guidance/>
3. This Policy

As a data Controller, you will be ensuring compliance with the requirements of this Policy and Data Protection Law including the collection, use, security, retention and deletion of all images and audio recordings as appropriate.

Any Licence Holder wishing to install a CCTV system should seek their own independent legal advice relative to their obligations and duties under Data Protection Law. This document should not be regarded as a definitive guide to Data Protection Law and cannot be relied upon as such.

THIRD PARTY DATA PROCESSOR

In order to install a CCTV system, a CCTV Service Provider will likely be required. A CCTV Service Provider may collect and store any information collected remotely, acting as a "Data Processor".

Data Protection Law defines a Data Processor as any natural or legal person, public authority or other body which processes personal data on behalf of the Data Controller, in response to specific instructions.

Please note that the Licence Holder, as Data Controller, still 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

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 where the recording is triggered due to a specific threat to driver or passenger safety, e.g. a 'panic button' is pressed/activated 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; and
- 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.

There is further guidance available on the Information Commissioner's website relative to audio recording. Licence Holders should be aware of the additional duties and obligations in relation to audio recording.

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 annual and intermediate inspections carried out by the Taxi Inspection Depot, Pottery Street, Greenock.

The installation and operation of a CCTV system must comply with the requirements of the Information Commissioner's CCTV Code of Practice, a copy of which can be viewed by accessing the following web-page: <https://ico.org.uk/for-organisations/guide-to-data-protection/key-dp-themes/guidance-on-video-surveillance-including-cctv/about-this-guidance/>

All equipment must comply with any legislative requirements in respect of Motor Vehicle Construction and Use Regulations.

All equipment must meet any and all requirements as regards safety, technical acceptability and operational/data integrity.

All equipment must be designed, constructed and installed in such a way 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.

All equipment must be installed as prescribed by the equipment and/or vehicle manufacturer installation instructions by a qualified auto-electrician.

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.

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.

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.

It is contrary to the Motor Vehicle (Construction and Use) Regulations 1986 for equipment to obscure the view of the road through the windscreen.

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. All wiring must be fused as set out in the manufacture's technical specification and be appropriately routed. 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 car driver and passengers, and not for any other purpose.

All equipment must be checked regularly and maintained to operational standards, including any repairs after damage.

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 Federal Information Processing Standard (FIPS) required by the Information Commissioner. 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.

Where the CCTV is used to record images in response to an incident outside the vehicle the License Holder must ensure that they comply with the requirements of the Information Commissioner's office.

Under Data Protection Law, 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).

Any Licence Holder wishing to install CCTV should seek their own independent legal advice relative to their obligations and duties under Data Protection Law. This document should not be regarded as a definitive guide to Data Protection Law and cannot be relied upon as such.

SIGNAGE

In addition to any signage and privacy notice requirements set out in the Information Commissioner's CCTV Code of Practice, the following requirements apply in relation to signage:

All taxis and private hire cars with CCTV must display signage within the vehicle to indicate that CCTV is in operation.

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 explicitly clear that audio recording is being or may be carried out.

CONTACT DETAILS

The name, address and the contact telephone number of the Licence Holder, as Data Controller must be included on any signage displayed in relation to CCTV operating within the taxi.