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Mr David Evans
Senior Policy Officer, Strategic Liaison
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Dear Mr Evans

AUDIO/VIDEO RECORDING IN TAXIS

Thank you for your letter dated 22 December 2011 in relation to Southampton City Council's policy requiring the installation of audio/video recording equipment in licensed taxis.

By way of background, the Council has a legal obligation under the Town and Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 to regulate licensed taxis operating within its area, and to ensure that licensed vehicles and drivers adhere to strict standards for the protection and safety of passengers and of the drivers themselves. In addition, the Council is legally obliged under Section 17 Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder in its area.

Following a lengthy period of consultation with both the trade and the public, on 26th August 2009 the Council's Licensing Committee introduced the condition that all licensed vehicles have a digital camera fitted in furtherance of the abovementioned objectives. The digital cameras record audio and video onto an encrypted secure hard disc drive, which is only accessible with approved secure software held by officers in the Council's dedicated licensing team. Footage is only ever downloaded or accessed in two specific instances: when a substantive complaint has been made to the Council against the driver of a specific vehicle; and where a crime report has been made to the Police and they have formally requested that data. Requests for access must be in writing, state the approximate time of the event and only the footage relevant to the specific incident will be downloaded and decrypted. Recorded data is automatically overwritten after a maximum period of 30 days (although the majority of currently approved systems will overwrite within a much shorter period).

The decision to require constant audio recording rather than a panic button system was based on the premise that most complaints about taxis only involve two parties, the driver and the passenger making the complaint or reporting the crime. Visual images only go part way to establishing the facts and are of no use if the complaint or crime is verbal in nature. Audio recording has proven to be essential to the Police when investigating crime (including assault, serious sexual assault and race hate crime), and to the Council when making decisions in relation to enforcement action. The Council considers that it would rarely be practical or of benefit to the driver / passenger to activate audio recording manually, and not realistic to expect a passenger to have the knowledge or wherewithal to activate audio recording - particularly if they felt under threat (for fear that it may aggravate an already intimidating situation).

This is particularly the case for those passengers most at risk due to a specific vulnerability (heavy intoxication or mental capacity) also including children, the elderly or those with visual impairment who may be ill-equipped to make a decision to activate recording or physically unable for whatever reason. Further, it is important to stress that manual activation can only ever occur once something untoward has *already* occurred and thus will be inherently of less use evidentially.

With regards the particular circumstances in Southampton I would stress that as one of the major cities south of London it faces social / demographic / topographical factors. It has a significant late night economy with a considerable number of late night establishments attracting thousands of visitors late at night and in the early hours. This is accompanied by a large student population attending the City's two universities and City College. It has a large scale international port which not only functions as a traditional port (for the large scale importation / exportation of goods) but likewise is home to an ever growing cruise industry which attracts hundreds of thousands of short term visitors to the City and over 1.2 million passengers. It is important to stress foreign nationals are particularly vulnerable. As a large city it has the usual social and demographic issues and in particular the police have identified race and hate crime to be of particular concern for significant sections of the community.

The Council notes previous comment by the ICO with regard to the number of downloads over a given period being small and the conclusion drawn is that this renders its policy excessive. This assumption was based on an incorrect assessment of the statistics provided. First and foremost the camera should act as a deterrent and therefore if there are fewer incidents reported requiring downloading from the cameras, this should be an indication that the cameras are effective. Over the two year period previously detailed, the Council carried out nine downloads as a result of complaints (with there being four cases in which audio evidence was critical); in addition the Police requested 58 downloads which in fact gives a total number of 67 downloads over a two year period. Nonetheless it is accepted that the proportion of occasions on which the data is accessed is small in relation to the number of total journeys. One would expect it to be as the vast majority of people act within the law. The Council would disagree with the conclusion that due to the small proportion the recording is excessive. In fact it would assert the contrary: that the small number of downloads illustrates the effectiveness of the checks and balances purposefully put into place to ensure that recordings are secure, cannot be accessed by anyone other than those authorised and most importantly are only ever downloaded in specific and defined circumstances (and the data downloaded is relevant only to a specific complaint or crime). This all has the effect of reducing the adverse impact upon individual privacy.

The CCTV code is referenced and particularly the fact that recordings may be justified under the Code where a recording is triggered due a specific threat. Section 7 of the Code gives the specific example of use of a panic button in a taxi cab – which is treated by the Code as an exceptional circumstance where audio recording is acceptable. The Council's opinion, to date, however has been that there is no difference of substance between i) the system required by the Council, where audio recording is always turned on but where recording will only be listened to in case of specific need; and ii) the system that the CCTV Code regards as acceptable, involving the use of a panic button. It has always been assumed that the infringement to privacy comes at a point where conversations in a vehicle are heard by another person, rather than at the point where they are merely stored on an encrypted hard disk.

Whilst not complying with the letter of the CCTV Code in this respect, it has been the Council's view that it is consistent with the spirit of the Code given that it is intended as a source of guidance rather than strictly enforceable obligation.

In making its assessment the Council clearly considered the benefits of the system and whether those benefits could reasonably be secured in any other way. Those benefits, it is important to note, are conferred directly upon those whose privacy is affected – including also the wider deterrent effect which can never be meaningfully assessed or recorded.

While the Council considers that its policy is a necessary and proportionate response to concerns about public and driver safety, and that it has made a tangible difference in terms of the reduction of crime in taxis and the identification of offenders who are suspected of committing crime, we do of course take your comments very seriously.

The Council wishes to ensure that the policy remains relevant and fit for purpose and that it works to achieve the desired outcomes whilst balancing the rights and interests of individuals. As this particular policy has been in place since 2009, your correspondence serves as a timely reminder for the Council to review effectiveness of the policy having now had the benefit of two years of operation.

It is proposed that in light of the issues you raise the Council shall, in partnership with the Police and the Council's Licensing Department, formally collate evidence on the effectiveness of the policy and refer the matter to its Licensing Committee for a full consideration following consultation. The ICO's views will be included in the report.

This will form the basis of a wholesale review of the policy to consider not only the issues you raise and the arguments as set out (as well as others) but its effectiveness generally as well as financial implications of the scheme.

I will be sure to keep you apprised of the outcome of the above-mentioned review.

I hope that this assists, but please advise if you need anything further.

Yours sincerely

Richard Ivory
Head of Legal, HR & Democratic Services