

From: casework@ico.org.uk
To: [Bates, Phil](#)
Subject: CCTV in taxis[Ref. ENQ0496479]
Date: 16 May 2013 15:42:31

Dear Mr Bates

Thank you for your e-mail asking for the Commissioner's views on the activation of audio recordings by panic buttons and the duration of any such recordings. The answers to your questions are as follows:

Q1. Any processing of sound and image data relating to individuals needs to be in accordance with the first data protection principle's fair and lawful processing requirements. In order for it to be lawful the Council must, amongst other things, comply with its Human Rights Act 1998 obligations including ensuring there is respect for private and family life. We would anticipate that in order to meet these obligations an assessment of the pressing social need that audio recording is aimed to address would first be necessary and if there is one identified, then whether the use of a panic button activated device would be a proportionate response to this. Chapter Four of the ICO's CCTV code of practice makes clear the need for such an initial assessment before deployment. If these tests are met and other data protection obligations, such as providing clear notices, are complied with then it is possible for panic button triggered systems to be operated in accordance with the DPA but this will depend upon the particular circumstances in your licensing area.

Q2. The Commissioner would expect any period for continued processing of a panic button activated audio recording to be informed by previous experience of incidents that would have benefitted from the availability of such a facility. If there is evidence of the duration of previous incidents then the Commissioner would take this into account if any queries are raised. It may well be that undertaking the impact assessment suggested above will also help inform the judgement over appropriate recording period.

We have also considered the questions posed in your accompanying letter dated the 7 May 2013 concerning cameras fitted in licensed taxis. This clearly covers similar ground to that in our previous correspondence on the use of continuous audio recording in licensed taxis and the resultant enforcement action and appeal proceedings. I will answer your queries in the same order they are set out in your letter:

Q1 The question of whether cameras should be in licensed vehicles and be mandatory will be informed by an assessment of the pressing social need that they would be aimed at addressing and whether including them in licensed vehicles and making them mandatory is a necessary and proportionate response to addressing this need. No doubt the Council's existing experience of the value of images under a mandatory scheme will help inform this judgment. The Information Commissioner does not have the details of the particular problems facing licensed taxi passengers and drivers in your licensing area or information as to the value of existing image capture, recording and disclosure. It is a judgment for the Council to make in the first instance based upon a careful evidence-based analysis of the situation.

Q2 As mentioned previously, judgements as to the triggering of image recording and the events used to do this will be informed by the particular pressing social need the cameras are meant to address and what are necessary and proportionate responses to these needs. Similarly the length of the recording will be informed by practical experience of past events and what is a proportionate response to these.

Q3. As made clear previously and reaffirmed in the recent Tribunal judgment in the appeal by the Council against enforcement action by the Commissioner, there needs to be a proper impact assessment identifying the pressing need and what is a necessary and proportionate response to this. It is clear from the Tribunal judgment that they share the Commissioner's view that on the evidence present to them the use of continuous audio recording is not proportionate.

Q4. The Commissioner believes the Council's existing approach of assuming the role of data controller for the information recorded by the camera/microphone is the correct one in law. This is because of the degree of control that the Council must necessarily exercise over the recording, quality and use of the data if it is to meet the Council's stated purposes. The level of control exercised in practice is consistent with the definition of a 'data controller' in the DPA. It is a criminal offence to process personal data whilst not being notified to the ICO as a data controller for that information so any departure from this policy would require very careful consideration. It is clear that besides being a legal requirement under the existing arrangements, it does have benefits in helping ensure consistent standards and appropriate data protection safeguards are adopted and adhered to in practice.

Yours sincerely

David Evans
Senior Policy Officer.

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