

Supplement 5 to the agenda for

Licensing sub-committee

Friday 15 March 2019

10.00 am

**Committee Room 1, The Shire Hall, St Peter's Square,
Hereford, HR1 2HX**

	Pages
7. APPLICATION FOR A VARIATION OF A PREMISES LICENCE IN RESPECT OF: 'MRH LEDBURY, THE HOMEND, LEDBURY. HR8 1BS'- LICENSING ACT 2003	3 - 56

From: [Robert Botkai](#)
To: [Wilson, Leah](#)
Cc: [Licensing](#); [Andrew Sanders](#)
Subject: RE: Premises Licence Variation Application - MRH Ledbury
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Dear Leah

You will be aware that this is an application to vary a licence and not an application for a new licence nor is it a licence review.

The hearing tomorrow is to consider relevant representations only.

To be a relevant representation the representation must be about the likely effect of the grant of the application on the promotion of the licensing objectives.

The store currently operates under existing conditions. We have updated these. I fail to see how your desire to further amend and make more onerous conditions can possibly be relevant in a variation application unless of course there is evidence that the existing conditions have proved inadequate or that they will be inadequate when the licence is varied.

The fact that our client takes certain steps (eg 3 monthly refresher training) is not sufficient grounds to demand a licence condition making it unlawful not to train every 3 months.

I really do not believe a hearing should be necessary here and I ask once again that you consider the conditions that have been proposed by the applicant so that the hearing may be cancelled.

I am available this morning but have a meeting this afternoon and will be travelling up to Hereford this evening if we have not reached agreement.

I will be asking the licensing officer to place all of our correspondence before the Committee.

Kind regards

Robert

From: Wilson, Leah [mailto:LWilson@herefordshire.gov.uk]
Sent: 12 March 2019 10:02
To: Robert Botkai
Cc: Licensing
Subject: RE: Premises Licence Variation Application - MRH Ledbury

This message originated outside Winckworth Sherwood

Hello Robert

It seems that we are not moving forward with this consultation (which did in fact end on 21.02.19). Trading standards have tried to satisfy the need to promote the objective 'protecting children from harm' whilst ensuring none of the conditions offered were onerous or challenging for the business.

I will answer your queries, however feel that the committee has to decide on the conditions:

- Training of all staff to be in the Award for Licensed Premises Staff. If have not seen such a condition on any licence, anywhere. We look after over 3,500 licences for a range of clients. What is the justification for this at these premises in the context of a variation application?

Trading standards received notification from yourself of the training that the business will be undertaking, namely ALPS.

- 3 monthly refresher rather than 6 monthly. What is the justification please in the context of a licence variation? I have only seen 3 month refresher imposed at reviews. The industry norm is 6 months. This company does train 3 monthly but this does not mean it should become a legal obligation.

Trading standards received notification from yourself that its normal practice that staff will receive update training every 3 months.

- You have added the requirement to describe the person who has attempted to purchase alcohol. We have not agreed this for several years as some electronic refusals registers do not allow this sort of recording. It was also found that descriptions were unhelpful in many ways.

In Trading Standards experience, descriptions of people being refused sales is very important as it allows for better mapping and intelligence to enable them to promote the licensing objectives. Trading standards were not made aware this premises were using an electronic recording system.

- You have added a minimum font size for notices. Is this really necessary in the context of this variation application?

Guidance from the Licensing Policy, which makes sense, as it could be written 'this small' and not be visible by the public.

Kind regards
Leah

From: Robert Botkai [mailto:rbotkai@wslaw.co.uk]
Sent: 11 March 2019 11:45
To: Wilson, Leah <LWilson@herefordshire.gov.uk>
Cc: Andrew Sanders <asanders@wslaw.co.uk>; Elaine Finlay <efinlay@wslaw.co.uk>
Subject: Premises Licence Variation Application - MRH Ledbury

Dear Leah

The following conditions have been offered by the applicant.

Amended Operating Schedule

1. A CCTV system will be installed, or the existing system maintained, such system to be fit for the purpose such system to be to the reasonable satisfaction of the police.
2. The CCTV system shall be capable of producing immediate copies on site. Copies of recordings will either be recorded on good quality video tape or digitally on to CD/DVD

or other equivalent medium.

3. Any recording will be retained and stored in a suitable and secure manner for a minimum of 31 days and shall be provided, subject to compliance with Data Protection legislation, to the police or other authorised officer within 24 hours of request.

4. The precise positions of the camera may be agreed, subject to compliance with Data Protection legislation, with the police from time to time.

5. The system will display, on any recording, the correct time and date of the recording.

6. The CCTV system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity.

7. All cashiers shall be trained to record refusals of sales of alcohol in a refusals book/register. The book/register will contain:

- details of the time and date the refusal was made;
- the identity of the staff member refusing the sale;
- details of the alcohol the person attempted to purchase.

This book/register shall be available for inspection by a police officer or other authorised officer on request.

8. There shall be no self-service of spirits except for spirit mixtures.

9. There will at all times be adequate levels of staff maintained at the premises. Such staff levels will be disclosed, on request, to the licensing authority and police.

10. Adequate waste receptacles for use by customers shall be provided in and immediately outside the premises.

11. The premises licence holder will ensure that an age verification policy will apply to the premises whereby all cashiers will be trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 years (or older if the licence holder so elects) to produce, before being sold alcohol, identification being a passport or photocard driving licence bearing a holographic mark or other form of identification that complies with any mandatory condition that may apply to this licence.

12. An incident book/register must be maintained to record:

- all incidents of crime and disorder occurring at the premises
- details of occasions when the police are called to the premises

The book/register must be retained at the premises or at the officers of the licence holder for a minimum period of 12 months.

13. All staff engaged or to be engaged in the sale of alcohol on the premises shall receive the following training in age restricted sales:

- Induction training which must be completed and documented prior to the sale of alcohol by the staff member.
- Refresher/reinforcement training at intervals of no more than 6 months.

Training records will be available for inspection by a police officer or other authorised officer on request.

14. Signage informing customers of the age verification policy adopted at the premises will be prominently displayed.

Your conditions are more onerous:

- Training of all staff to be in the Award for Licensed Premises Staff. If have not seen such a condition on any licence, anywhere. We look after over 3,500 licences for a range of clients. What is the justification for this at these premises in the context of a variation application?
- 3 monthly refresher rather than 6 monthly. What is the justification please in the context of a licence variation? I have only seen 3 month refresher

imposed at reviews. The industry norm is 6 months. This company does train 3 monthly but this does not been it should become a legal obligation.

- You have added the requirement to describe the person who has attempted to purchase alcohol. We have not agreed this for several years as some electronic refusals registers do not allow this sort of recording. It was also found that descriptions were unhelpful in many ways.
- You have added a minimum font size for notices. Is this really necessary in the context of this variation application?
- Some of the amendments you have made do not reflect your earlier emails (please see your email dated 18 February).

Please can we agree the conditions 1-14 as above. If so I would hope that there will be no requirement for a hearing on Friday.

I have not copied in the Licensing Authority as it is for you and I to negotiated and hopefully agree. If we are not agreed, all of the correspondence will be placed before the Licensing Committee for them to consider.

Kind regards

Robert

From: Robert Botkai
Sent: 11 March 2019 11:08
To: 'Wilson, Leah'
Cc: Licensing; Andrew Sanders; Elaine Finlay
Subject: RE: Premises Licence Variation Application - MRH Ledbury

Hi Leah

Can we discuss please?

This is an application to vary and not a review.

The licence is already subject to conditions which we have offered to update/

I am concerned that your conditions go considerably further which may be appropriate at a review but would not be support by a Court as part of a variation application.

I am available most of today/tomorrow but on the mobile 07768 173936.

Kind regards

Robert

From: Wilson, Leah [<mailto:LWilson@herefordshire.gov.uk>]
Sent: 11 March 2019 10:45
To: Robert Botkai
Cc: Licensing
Subject: RE: Premises Licence Variation Application - MRH Ledbury

Hello Robert

Thank you for the clarification of the training.

See what you think of these new adapted conditions:

1. All staff engaged in the sale of alcohol to be trained in the Award for Licensed Premises Staff or equivalent training course within 1 month of commencing employment at the premises. No person shall be authorised to sell or supply alcohol until this training is completed. Refresher training will be conducted at 3 monthly intervals. Training records shall be available for inspection by a police officer or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on request.
2. All cashiers shall be trained to record refusals of sales of alcohol in a refusals book/register. The book/register will contain:
 - details of the time and date the refusal was made;
 - the identity of the staff member refusing the sale;
 - a description of the person who attempted to purchase the alcohol;
 - details of the alcohol the person attempted to purchase.

It will be collected and reviewed on a weekly basis by the Designated Premises Supervisor or his/her delegate.

This book/register shall be available for inspection by a police officer or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on request.

3. The premises licence holder will ensure that an age verification policy will apply to the premises whereby all cashiers will be trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 years (or older if the licence holder so elects) to produce, before being sold alcohol, identification being a passport or photocard driving licence bearing a holographic mark or other form of identification that complies with any mandatory condition that may apply to this licence.
4. Signage informing customers of the age verification policy adopted at the premises (not less than 32 font bold shall be used) and will be prominently displayed. Signage shall be displayed at the entrance to the premises as well as at the sale area advertising the policy.

I trust these now satisfy both the company and the objectives set out in the Licensing Act 2003. I look forward to hearing from you.

Kind regards
Leah

From: Robert Botkai [<mailto:rbotkai@wslaw.co.uk>]
Sent: 08 March 2019 16:51
To: Wilson, Leah <LWilson@herefordshire.gov.uk>
Cc: Licensing <licensing@herefordshire.gov.uk>; Andrew Sanders <asanders@wslaw.co.uk>; Elaine Finlay <efinlay@wslaw.co.uk>
Subject: RE: Premises Licence Variation Application - MRH Ledbury

Hi Leah

Further to my email below please confirm that your representation is withdrawn. If not, please let me know what is outstanding.

Kind regards

Robert

From: Robert Botkai
Sent: 04 March 2019 19:12
To: 'Wilson, Leah'
Cc: Licensing; Andrew Sanders; Elaine Finlay
Subject: RE: Premises Licence Variation Application - MRH Ledbury

Hi Leah

Sorry for the delay.

The training is commissioned through CPL. They have confirmed as follows:

In relation to your question about whether checkout staff do the equivalent of a Level 1 BIIAB course – this, I suspect is a reference to the BIIAB Level 1 Award in Responsible Alcohol Retailing (ARAR). ARAR is not available online but ALPS and SALPS cover the same topics of not making sales of alcohol to underage persons or sales to those purchasing on their behalf, and not selling to people intoxicated by alcohol. These courses are pitched at Level 2 – one level of difficulty above the ARAR. In addition, all staff selling alcohol are tested on these subjects every 3 months, as described below.

I hope that this helps and that you can now agree the conditions in my email dated 18 February below.

Thanks

Robert

From: Wilson, Leah [<mailto:LWilson@herefordshire.gov.uk>]
Sent: 18 February 2019 18:05
To: Robert Botkai
Cc: Licensing
Subject: RE: Premises Licence Variation Application - MRH Ledbury

This message originated outside Winckworth Sherwood

Hello Robert

Thank you for your email. Those conditions satisfy points 2 and 3, save that Trading Standards are not mentioned in the 'available for inspection' conditions. Can 'trading standards' be added in to those please?

The training should to be BIIAB level 1 or equivalent. Do you know if the training is equivalent or if it's been authorised by a primary authority?

Kind regards
Leah

From: Robert Botkai [<mailto:rbotkai@wslaw.co.uk>]
Sent: 18 February 2019 16:41
To: Wilson, Leah
Cc: Andrew Sanders; Elaine Finlay
Subject: {Disarmed} Premises Licence Variation Application - MRH Ledbury

Dear Leah

Thank you for your email addressed to Andrew Sanders dated 18 February.

Below are conditions that we have suggested to the police and I hope that we can all agree these. The red highlights the changes made to the operating schedule.

Our client does train all staff but not necessarily to BIIAB level 1.

Amended Operating Schedule

1. A CCTV system will be installed, or the existing system maintained, such system to be fit for the purpose **such system to be to the reasonable satisfaction of the police.**
2. The CCTV system shall be capable of producing immediate copies on site. Copies of recordings will either be recorded on good quality video tape or digitally on to CD/DVD or other equivalent medium.
3. Any recording will be retained and stored in a suitable and secure manner for a minimum of 31 days **and shall be provided, subject to compliance with Data Protection legislation, to the police or other authorised officer within 24 hours of request.**
4. The precise positions of the camera may be agreed, subject to compliance with Data Protection legislation, with the police from time to time.
5. The system will display, on any recording, the correct time and date of the recording.
6. The CCTV system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity.
7. All cashiers shall be trained to record refusals of sales of alcohol in a refusals book/register. The book/register will contain:
 - details of the time and date the refusal was made;

- the identity of the staff member refusing the sale;
- details of the alcohol the person attempted to purchase.

This book/register shall be available for inspection by a police officer or other authorised officer on request.

8. There shall be no self-service of spirits except for spirit mixtures.

9. There will at all times be adequate levels of staff maintained at the premises. Such staff levels will be disclosed, on request, to the licensing authority and police.

10. Adequate waste receptacles for use by customers shall be provided in and immediately outside the premises.

11. The premises licence holder will ensure that an age verification policy will apply to the premises whereby all cashiers will be trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 years (or older if the licence holder so elects) to produce, before being sold alcohol, identification being a passport or photocard driving licence bearing a holographic mark or other form of identification that complies with any mandatory condition that may apply to this licence.

12. An incident book/register must be maintained to record:

- all incidents of crime and disorder occurring at the premises
- details of occasions when the police are called to the premises

The book/register must be retained at the premises or at the officers of the licence holder for a minimum period of 12 months.

13. All staff engaged or to be engaged in the sale of alcohol on the premises shall receive the following training in age restricted sales:

- Induction training which must be completed and documented prior to the sale of alcohol by the staff member.
- Refresher/reinforcement training at intervals of no more than 6 months.

Training records will be available for inspection by a police officer or other authorised officer on request.

14. Signage informing customers of the age verification policy adopted at the premises will be prominently displayed.

I look forward to hearing from you.

Kind regards

Robert

From: Wilson, Leah <LWilson@herefordshire.gov.uk>

Sent: 18 February 2019 13:17
To: Andrew Sanders <asanders@wslaw.co.uk>
Cc: Licensing <licensing@herefordshire.gov.uk>
Subject: Premises Licence Variation Application

This message originated outside Winckworth Sherwood

Dear Mr Sanders

RE: Trading Standards Representation in the Application to Vary a Premises Licence

As an authorised body under the Licensing Act 2003, Herefordshire Council Environmental Health and Trading Standards have received details of your client's application for a premises licence variation for MRH Ledbury, The Homend, Ledbury, HR8 1BS.

Trading Standards have the responsibility for enforcing the Licensing Act 2003 in respect of sales of alcohol to anyone under the age of eighteen.

After looking at your application under the section protection of children from harm we would seek to include the following conditions on the premises licence as an amendment to those already specified on the application:

1. All staff engaged in the sale of alcohol to be trained in responsible alcohol retailing to the minimum standard of BIIAB level 1 or any equivalent training course within 1 month of commencing employment at the premises. Where there are existing staff this training shall be completed within 3 months of the date that this condition first appears on the licence. No person shall be authorised to sell or supply alcohol until this training is completed. Refresher training will be conducted at 12 monthly intervals. Training records shall be kept on the premises and produced to the police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on demand.
2. A written or electronic register of refusals will be kept including a description of the people who have been unable to provide required identification to prove their age. Such records shall be kept for a period of 12 months. It will be collected and reviewed on a weekly basis by the Designated Premises Supervisor and produced to the police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on demand.
3. The premises shall operate a Challenge 25 Policy. Such policy shall be written down and kept at the premises. The policy shall be produced on demand of the Police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council. Prominent, clear and legible signage (in not less than 32 font bold) shall also be displayed at all entrances to the premises as well as at, at least one location behind any sale area advertising the scheme operated.

I would kindly request that on the authorisation from your client of an acceptance of these conditions you email both our licensing department licensing@herefordshire.gov.uk and myself (on behalf of trading standards).

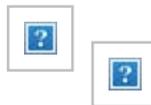
Regards
Trading Standards

**MailScanner has detected a possible
fraud attempt from "." claiming to be**



Leah Wilson
Trading Standards Officer
Environmental Health and Trading Standards
Economy, Communities and Corporate
Directorate
Hereford Council
01432 260163
lwilson@herefordshire.gov.uk
lwilson@herefordshire.gcsx.gov.uk

8 St Owens Street
Hereford
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From: [Robert Botkai](#)
To: ["Mooney,James"](#)
Cc: ["Reynolds,Duncan"](#); [Licensing](#); [Andrew Sanders](#)
Subject: MRH Ledbury

Dear Jim

I have still not had a response to my email dated 19 February.

The hearing tomorrow is to consider relevant representations only.

To be a relevant representation the representation must be about the likely effect of the grant of the application on the promotion of the licensing objectives.

The store currently operates under existing conditions. We have updated these. I fail to see how your desire to further amend and make more onerous conditions can possibly be relevant in a variation application unless of course there is evidence that the existing conditions have proved inadequate or that they will be inadequate when the licence is varied.

I have explained that it is not possible for our client to provide immediate copies of CCTV footage 24 hours a day. A petrol station is usually single manned at night. This is entirely standard practice. The night cashier will not necessarily have full training on the use and operation of the CCTV system nor indeed be allowed access to the data. We have agreed that images will be provided within 24 hours of request.

I refer you to the Home Office Surveillance Camera Code of Practice June 2013 Principle 7. I have also discussed with the Information Commissioner's Office who raised the concern that not all staff should have access to the data. A decision on disclosure has to be taken by "the operator". In practice of course, there is unlikely to be any issue in disclosing images but it would be completely wrong to impose a condition which could put our client in breach of data protection legislation.

In the light of this I ask again that you agree the conditions which have been proposed. It is very important in terms of the hearing that you are aware that this is a variation application and not an application for a new licence or a licence review. You have confirmed that the application is not contentious. A variation application is not to be used as an opportunity to impose conditions on the whole of the licence. Legally the conditions, if not agreed by the applicant, could only apply during the extended hours and clearly this makes no sense.

I had been hoping that we would be able to discuss this matter, I can confirm that in this program of applications this is the only hearing with officers making representations. All other applications have been agreed. The only hearings have been where residents have made representations.

There is still time to agree this application. I am available until 3pm today but will then be in a meeting and will be travelling to Hereford this evening.

I will be asking the licensing officer to place all of our correspondence before the Committee.

I hope that we can reach agreement this morning.

Kind regards

Robert

From: Mooney,James [mailto:james.mooney@westmercia.pnn.police.uk]
Sent: 12 March 2019 09:57
To: Robert Botkai
Cc: Reynolds,Duncan
Subject: RE: MRH Ledbury

This message originated outside Winckworth Sherwood

Morning

Sergeant Reynolds is not working today (Tuesday) he will respond/make contact either Wednesday or Thursday morning at the latest.

Regards

Jim Mooney
Harm Reduction/Community Safety Dept.,
Harm Reduction Coordinator,
Herefordshire Policing Area
West Mercia Police.
DDI 01432 347102
Switchboard '101' x 4702
james.mooney@westmercia.pnn.police.uk
[In Herefordshire we protect people from harm](#)
[#destinationHereford](#)
www.westmercia.police.uk/maketherightcall

The information contained is shared under the provisions of the Crime and Disorder Act. It is shared between appropriate agencies for the purpose of reducing and dealing with criminal and anti-social behaviour. Once in the hands of a new agency it is the responsibility of that agency to protect the information under its own Data Protection Provisions.

From: Robert Botkai [mailto:rbotkai@wslaw.co.uk]
Sent: 08 March 2019 17:12
To: Reynolds,Duncan
Cc: Mooney,James; Andrew Sanders; Elaine Finlay
Subject: MRH Ledbury
Importance: High

Hi Duncan

I cannot trace a response to my email below.

It would be disappointing if this matter has to go to a public hearing. This is costly for both the applicant and of course the Licensing Authority. It will also take up valuable police time.

This is one of a programme of applications of which 127 have now been served. As you can imagine, we have had to deal with a large number of requests for conditions from police officers and other officers around the country. I am pleased to say that we have reached agreement with the police and other responsible authorities in every application and we have had no hearings where an officer of a responsible authority has opposed an application. I

should add that some of the 127 applications remain within the representation period.

Whilst I appreciate that every application must be considered on its merits I think we should be doing our best to reach an agreement here so that the hearing may be cancelled. In the spirit of openness I confirm that all of our correspondence will be submitted to the licensing officer for inclusion on the Committee Report.

I will be available on Monday morning on 0207 593 5004 and the rest of next week on 07768 173 936. We do not have much time as the hearing is listed for next Friday and I would need to travel up the night before.

I look forward to hearing from you.

Kind regards

Robert

From: Robert Botkai
Sent: 19 February 2019 14:31
To: 'Reynolds,Duncan'
Cc: Mooney,James; Andrew Sanders; Elaine Finlay
Subject: RE: MRH Ledbury

Hi Duncan

If you have evidence that your wording is required in the context of this store and this application please provide full details. This may save the public cost of a hearing.

You will be aware of the requirements of the Hearings Regulations in any event and so I look forward to receiving a copy of your evidence.

Kind regards

Robert

From: Reynolds,Duncan [mailto:duncan.reynolds@westmercia.pnn.police.uk]
Sent: 19 February 2019 14:24
To: Robert Botkai
Cc: Mooney,James
Subject: RE: MRH Ledbury

This message originated outside Winckworth Sherwood

Hi Robert,

I agree that we have reached an impasse with regards to a way to move forward on the wording of the CCTV condition. There will be no requirement for Force Legal to intervene as the established course of action from here is to present to the Licensing Committee who will make the appropriate decision based on evidence from both sides of the discussion,

Regards

Duncan

PS 3456 Duncan REYNOLDS
Harm Reduction
Hereford

Ext: 4712

From: Mooney,James
Sent: 19 February 2019 13:33
To: 'Robert Botkai'
Cc: Reynolds,Duncan
Subject: RE: MRH Ledbury

Thank you for your reply to the message I sent on behalf of Ps Reynolds. I have forwarded your message to Ps Reynolds, who has earlier indicated that the only matter that is not agreed is your wording for the CCTV condition.

Ps Reynolds is the lead officer for Herefordshire Police with regards to licensing matters and he will respond to you in due course.

Regards

Jim Mooney
Harm Reduction/Community Safety Dept.,
Harm Reduction Coordinator,
Herefordshire Policing Area
West Mercia Police.
DDI 01432 347102
Switchboard '101' x 4702
james.mooney@westmercia.pnn.police.uk
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www.westmercia.police.uk/maketherightcall

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From: Robert Botkai [mailto:rbotkai@wslaw.co.uk]
Sent: 19 February 2019 12:33
To: Mooney,James
Cc: Reynolds,Duncan; Andrew Sanders; Elaine Finlay
Subject: MRH Ledbury

Dear Jim

This condition you have proposed is not consistent with your agreeing 1-2 and 4-14.

This is an application to vary a licence. The existing licence simply requires there to be a CCTV system with record facility. We have offered more detailed conditions but it seems that you wish to use the opportunity of a variation application to impose yet more restrictions.

Do you have any record of difficulty in securing images from the store? After all, the store is currently licensed 6am to 11pm. Your representation should only about the impact of the grant of the variation on the licensing objectives.

The store is likely to be single manned at night. The store would then only operate through the night pay window. Our client cannot guarantee that the night cashier is fully trained and with full access to the CCTV system. I have explained this on the telephone and this is entirely standard practice for 24 hour stores.

On the one hand you expect the night cashier to be fully trained and competent at downloading CCTV footage "on demand". This does not sit well with your requirement that the CCTV equipment is kept in a "secure environment under the control of the DPS or other responsible named individual".

Again as discussed, it is not practical for our client to report any "technical failure" of the CCTV equipment to the police "immediately". Our condition requires that the system be "fully operational" throughout the hours that the premises are open for any licensable activity ." It follows that if the system is not fully operational then alcohol sales would need to cease.

We have provided that the CCTV system is to be to the reasonable satisfaction of the police.

We seem to have reached a bit of an impasse. It should not be necessary to have a public hearing to argue this condition. If it would help I am happy to discuss with the force legal advisor.

Kind regards

Robert

From: Mooney,James [mailto:james.mooney@westmercia.pnn.police.uk]
Sent: 19 February 2019 10:31
To: Robert Botkai
Cc: Reynolds,Duncan
Subject: RE: MRH Ledbury

This message originated outside Winckworth Sherwood

Morning

On behalf of Ps Reynolds condition 3 Police proposal is:

CCTV will be provided in the form of a recordable system, capable of providing pictures of EVIDENTIAL QUALITY in all lighting conditions particularly facial

recognition.

Cameras shall encompass all ingress and egress to the premises, fire exits, outside areas, and all areas where the sale/supply of alcohol occurs.

Equipment MUST be maintained in good working order, be correctly time and date stamped, recordings MUST be kept in date order, numbered

sequentially and kept for a period of 31 days and handed to Police as follows:

(a) In the event of a serious incident as defined by a senior Police Officer of the rank of Police Inspector or above - on demand.

(b) On all other occasions within 48 hours of the request being made.

The Premises Licence Holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in recordable media format.

The Recording equipment and tapes/discs shall be kept in a secure environment under the control of the DPS or other responsible named individual. A operational log report must be maintained endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded.

In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS/authorised person MUST report the failure to the Police on contact number '101' immediately.

Regards

Jim Mooney

Harm Reduction/Community Safety Dept.,

Harm Reduction Coordinator,

Herefordshire Policing Area

West Mercia Police.

DDI 01432 347102

Switchboard '101' x 4702

james.mooney@westmercia.pnn.police.uk

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From: Robert Botkai [mailto:rbotkai@wslaw.co.uk]

Sent: 19 February 2019 10:20

To: Reynolds,Duncan

Cc: Mooney,James; 'Spriggs, Fred'; Elaine Finlay; Andrew Sanders

Subject: RE: MRH Ledbury

Hi Duncan

So just to be clear you agree the application as per the amended operating schedule set out in

my email below apart from condition 3. What wording to you propose for condition 3 please?

Thanks

Robert

From: Reynolds,Duncan [mailto:duncan.reynolds@westmercia.pnn.police.uk]
Sent: 19 February 2019 10:16
To: Robert Botkai
Cc: Mooney,James; 'Spriggs, Fred'
Subject: MRH Ledbury

This message originated outside Winckworth Sherwood

Morning Robert,

I have considered the below points in your e-mail and have discussed the case with Jim Mooney and the Police stance will be that the amended operational schedule points 1-2 and 4-14 we can agree but Point 3 - access to the CCTV cannot be agreed as we maintain our original position.

Regards

Duncan

Dear Jim

It was good to speak earlier.

I will set out below the conditions we proposed in our operating schedule. I will then set out the conditions amended to reflect discussions with Trading Standards, amendments sent to you/Sgt Reynolds and those discussed today.

Operating schedule conditions

1. A CCTV system will be installed, or the existing system maintained, such system to be fit for the purpose.
2. The CCTV system shall be capable of producing immediate copies on site. Copies of recordings will either be recorded on good quality video tape or digitally on to CD/DVD or other equivalent medium.
3. Any recording will be retained and stored in a suitable and secure manner for a minimum of 31 days and shall be made available, subject to compliance with Data Protection legislation, to the police for inspection on request.
4. The precise positions of the camera may be agreed, subject to compliance with Data Protection legislation, with the police from time to time.
5. The system will display, on any recording, the correct time and date of the recording.
6. The CCTV system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity.
7. All cashiers shall be trained to record refusals of sales of alcohol in a refusals book/register. The book/register will contain:

- details of the time and date the refusal was made;
- the identity of the staff member refusing the sale;
- details of the alcohol the person attempted to purchase.

This book/register shall be available for inspection by a police officer or other authorised officer on request.

8. There shall be no self-service of spirits except for spirit mixtures.
9. There will at all times be adequate levels of staff maintained at the premises. Such staff levels will be disclosed, on request, to the licensing authority and police.
10. Adequate waste receptacles for use by customers shall be provided in and immediately outside the premises.
11. The premises licence holder will ensure that an age verification policy will apply to the premises whereby all cashiers will be trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 years (or older if the licence holder so elects) to produce, before being sold alcohol, identification being a passport or photocard driving licence bearing a holographic mark or other form of identification that complies with any mandatory condition that may apply to this licence.
12. All staff engaged or to be engaged in the sale of alcohol on the premises shall receive the following training in age restricted sales:

- Induction training which must be completed and documented prior to the sale of alcohol by the staff member.
- Refresher/reinforcement training at intervals of no more than 6 months.

Training records will be available for inspection by a police officer or other authorised officer on request.

Amended Operating Schedule

1. A CCTV system will be installed, or the existing system maintained, such system to be fit for the purpose such system to be to the reasonable satisfaction of the police.
2. The CCTV system shall be capable of producing immediate copies on site. Copies of recordings will either be recorded on good quality video tape or digitally on to CD/DVD or other equivalent medium.
3. Any recording will be retained and stored in a suitable and secure manner for a minimum of 31 days and shall be provided, subject to compliance with Data Protection legislation, to the police or other authorised officer within 24 hours of request.
4. The precise positions of the camera may be agreed, subject to compliance with Data Protection legislation, with the police from time to time.
5. The system will display, on any recording, the correct time and date of the recording.
6. The CCTV system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity.
7. All cashiers shall be trained to record refusals of sales of alcohol in a refusals book/register. The book/register will contain:
 - details of the time and date the refusal was made;
 - the identity of the staff member refusing the sale;
 - details of the alcohol the person attempted to purchase.

This book/register shall be available for inspection by a police officer or other authorised officer on request.

8. There shall be no self-service of spirits except for spirit mixtures.
9. There will at all times be adequate levels of staff maintained at the premises. Such staff

levels will be disclosed, on request, to the licensing authority and police.

10. Adequate waste receptacles for use by customers shall be provided in and immediately outside the premises.

11. The premises licence holder will ensure that an age verification policy will apply to the premises whereby all cashiers will be trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 years (or older if the licence holder so elects) to produce, before being sold alcohol, identification being a passport or photocard driving licence bearing a holographic mark or other form of identification that complies with any mandatory condition that may apply to this licence.

12. An incident book/register must be maintained to record:

- all incidents of crime and disorder occurring at the premises
- details of occasions when the police are called to the premises

The book/register must be retained at the premises or at the officers of the licence holder for a minimum period of 12 months.

13. All staff engaged or to be engaged in the sale of alcohol on the premises shall receive the following training in age restricted sales:

- Induction training which must be completed and documented prior to the sale of alcohol by the staff member.
- Refresher/reinforcement training at intervals of no more than 6 months.

Training records will be available for inspection by a police officer or other authorised officer on request.

14. Signage informing customers of the age verification policy adopted at the premises will be prominently displayed.

I very much hope that the above is agreed. If you feel that the conditions need further amendment I will, of course, take instructions.

Kind regards

Robert

PS 3456 Duncan REYNOLDS
Harm Reduction
Hereford

Ext: 4712

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From: [Reynolds,Duncan](#)
To: [Robert Botkai](#)
Cc: [Mooney,James](#)
Subject: FW: MRH Ledbury
Date: 12 February 2019 22:02:50
Attachments: [MALTHURST.DOC](#)

This message originated outside Winckworth Sherwood

Hi Robert,

Apologies for the delay in a response as I am away from the Office most of this week. Mr Mooney has prepared a response from a Police Licensing perspective which covers the salient points.

I have forwarded to you direct as there is little I can add,

I hope this clears up some of the ambiguity,

Regards

Duncan

***PS 3456 Duncan REYNOLDS
Harm Reduction
Hereford***

Ext: 4712

From: Mooney,James
Sent: 06 February 2019 14:58
To: Reynolds,Duncan
Subject: MRH Ledbury

NOT PROTECTIVELY MARKED

I have discussed the issues with Fred Spriggs of the Licensing Authority.

He also believes that the applicant is looking at the wrong licence and as such we should respond as follows (for you to amend as you feel necessary):

The Police position remains the same and we are concerned that you may be looking at the wrong premises licence as you are using wording which does not form part of the existing licence or Police submissions. To assist I have attached an electronic copy of the current premises licence which the authority confirm is the up to date licence. You will see that this licence reflects similar conditions that the Police have requested as part of their current representations.

You may also wish to view the premises licence for another licensed premises held in the name of your client - a convenience store with a service station - at Leominster that reflects the current licence issued to the Ledbury premises.

You will also see the existing licence has a condition regards 'no adult entertainment'. This does NOT form part of Police submissions. I would refer you to the licensing policy of Herefordshire Council that makes reference to this condition and the fact that the authority would/can apply it as a matter of course. This is a matter that I suggest you discuss further with them as it does not form part of Police representations and is purely part of the existing licence.

With regards to the authorities model pool of conditions, I have checked their website again - as has the authority - and can confirm it is easily accessible to all.

With regards to relevant case law, this is a matter that I do not propose to expand on at this time except to say that if this matter progresses to a hearing the authority will likely make reference to the case law in their back ground papers and in their presentation to the committee.

This is all an unfortunate position to be - especially as this application is not viewed as contentious - however the Police view is that either the existing conditions remain or the representations made by the Police are attached to any licence granted to this variation application.

Regards

Jim Mooney
Harm Reduction/Community Safety Dept.,
Harm Reduction Coordinator,
Herefordshire Policing Area
West Mercia Police.

DDI 01432 347102

Switchboard '101' x 4702

james.mooney@westmercia.pnn.police.uk

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**LICENSING ACT 2003
Part A - Premises Licence**

Premises licence number - PR00311 (App to Vary Premise DPS)

Part 1 - Premises details

Postal address of premises, or if none, Ordnance Survey map reference or description

**MRH Leominster
Ridgemore
Leominster
HR6 0AL**

Telephone number: **0845 165 527**

Where the licence is time limited the dates:

Not applicable

Licensable activities authorised by the licence

**SALE/SUPPLY OF ALCOHOL (consumption off the premises)
LATE NIGHT REFRESHMENT**

The times the licence authorises the carrying out of licensable activities

Sale/Supply of Alcohol

Monday – Sunday from 00:00 until 23:59

Late Night Refreshment

Monday – Sunday from 23:00 until 05:00

The opening hours of the premises

Hours: Monday – Sunday from 00:00 until 23:59

Where the licence authorises supplies of alcohol whether these are on and/ or off supplies

For consumption off the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

**Malthurst Ltd
Vincent House
4 Grove Lane
Epping
Essex
CM16 4LH**

Registered number of holder, for example company number, charity number (where applicable)

03445529

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

**Subagar Ratnam
XXXXX**

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

**Licence Number – XXXX
Issuing Authority – London Borough of Hillingdon**

Annex 1 - Mandatory conditions

Age verification

- (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.

**Licensing Section, Herefordshire Council
8 St Owen Street, Hereford. HR1 2PJ**

Below Cost Price

A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

Mandatory conditions where licence authorises supply of alcohol

No supply of alcohol may be made under the premises licence-

- (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence

Annex 2 - Conditions consistent with the operating Schedule**Licensing conditions**

- CCTV will be provided in the form of a recordable system, capable of providing pictures of EVIDENTIAL QUALITY in all lighting conditions particularly facial recognition.
- Cameras shall encompass all ingress and egress to the premises, fire exits, outside areas, and all areas where the sale/ supply of alcohol occurs.
- Equipment MUST be maintained in good working order, be correctly time and date stamped, recordings MUST be kept in date order, numbered sequentially and kept for a period of 31 days and handed to Police on demand.
- The Premises Licence Holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format EITHER DISC or VHS to the Police/Local Authority on demand.
- The Recording equipment and tapes/discs shall be kept in a secure environment under the control of the DPS or other responsible named individual. An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded.
- In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS MUST report the failure to the Police on contact number 0300 333 3000 immediately.
- The premises shall operate a Challenge 25 Policy. Such policy shall be written down and kept at the premises. The policy shall be produced on demand of the Licensing Authority or Police. Prominent, clear and legible signage (in not less than 32 font bold) shall also be displayed at all entrances to the premises as well as at, at least one location behind any bar advertising the scheme operated.
- All staff shall be trained within 2 weeks of taking up employment and six monthly thereafter. The training shall include:
 - Selling to under age person
 - Selling to drunks
 - Age verification

Such training will be recorded and records shall be kept at the premises which will be produced to an authorised officer the licensing authority or the police on demand.

Protection of Children

Licensing Section, Herefordshire Council
8 St Owen Street, Hereford. HR1 2PJ

No adult entertainment or services or activities must take place at the premises (Adult Entertainment includes, but is not restricted to, such entertainment or services which would generally include topless bar staff, striptease, lap-table, or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language).

Annex 3 - Conditions attached after a hearing by the licensing authority

Not Applicable

Annex 4 - Plans

As attached

**LICENSING ACT 2003
Part B - Premises licence summary**

Premises licence number - PR00311 (App to Vary Premise DPS)

Premises details

Postal address of premises, or if none, ordnance survey map reference or description

**MRH Leominster
Ridgemore
Leominster
HR6 0AL**

Telephone number: **0845 165 527**

Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence

**SALE/SUPPLY OF ALCOHOL (consumption off the premises)
LATE NIGHT REFRESHMENT**

The times the licence authorises the carrying out of licensable activities

**Sale/Supply of Alcohol
Hours: Monday – Sunday from 00:00 until 23:59**

**Late Night Refreshment
Hours: Monday – Sunday from 23:00 until 05:00**

The opening hours of the premises

Hours: Monday – Sunday from 00:00 until 23:59

Name, (registered) address of holder of premises licence

**Malthurst Ltd
Vincent House
4 Grove Lane
Epping
Essex
CM16 4LH**

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

For consumption off the premises

Registered number of holder, for example company number, charity number (where applicable)

03445529

Name of designated premises supervisor where the premises licence authorises the supply of alcohol

Subagar Ratnam

State whether access to the premises by children is restricted or prohibited

No adult entertainment or services or activities must take place at the premises



Home Office

Surveillance Camera Code of Practice

June 2013

Surveillance Camera Code of Practice

Presented to Parliament Pursuant to Section 30 (1) (a) of the
Protection of Freedoms Act 2012

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Chapter 1: Introduction

Definitions

1.1 In this code:

- “1998 Act” means the Data Protection Act 1998.
- “2000 Act” means the Regulation of Investigatory Powers Act 2000.
- “2012 Act” means the Protection of Freedoms Act 2012.
- “Overt surveillance” means any use of surveillance for which authority does not fall under the 2000 Act.
- “Public place” has the meaning given by Section 16(b) of the Public Order Act 1986 and is taken to include any highway and any place to which at the material time the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.
- “Relevant authority” has the meaning given by Section 33(5) of the 2012 Act.
- “Surveillance camera systems” has the meaning given by Section 29(6) of the 2012 Act and is taken to include: (a) closed circuit television (CCTV) or automatic number plate recognition (ANPR) systems; (b) any other systems for recording or viewing visual images for surveillance purposes; (c) any systems for storing, receiving, transmitting, processing or checking the images or information obtained by (a) or (b); (d) any other systems associated with, or otherwise connected with (a), (b) or (c)¹.
- “System Operator” - person or persons that take a decision to deploy a surveillance camera system, and/or are responsible for defining its purpose, and/or are responsible for the control of the use or processing of images or other information obtained by virtue of such system.
- “System User” – person or persons who may be employed or contracted by the system operator who have access to live or recorded images or other information obtained by virtue of such system.

Background

1.2 This code of practice is issued by the Secretary of State under Section 30 of the 2012 Act. It provides guidance on the appropriate and effective use of surveillance camera systems by relevant authorities (as defined by section 33 of the 2012 Act) in England and Wales who must have regard to the code when exercising any functions to which the code relates. Other operators and users of surveillance camera systems in England and Wales are encouraged to adopt the code voluntarily. It is a significant step in the ongoing process of delivering the government’s commitment to the ‘further regulation of CCTV’ which it believes is a task that is best managed in gradual and incremental stages. As understanding and application of the code increases the government may consider including other bodies as relevant authorities who will have to have regard to the code.

1 Excludes any camera system with relevant type approval of a prescribed device under Section 20 of the Road Traffic Offenders Act 1988 used exclusively for enforcement purposes, which captures and retains an image only when the relevant offence is detected and with no capability to be used for any surveillance purpose. For example, for the enforcement of speeding offences.

Purpose of the code

- 1.3 Surveillance camera systems are deployed extensively within England and Wales, and these systems form part of a complex landscape of ownership and operation. Where used appropriately, these systems are valuable tools which contribute to public safety and security and in protecting both people and property.
- 1.4 The government is fully supportive of the use of overt surveillance cameras in a public place whenever that use is: in pursuit of a legitimate aim; necessary to meet a pressing need²; proportionate; effective, and; compliant with any relevant legal obligations.
- 1.5 The purpose of the code will be to ensure that individuals and wider communities have confidence that surveillance cameras are deployed to protect and support them, rather than spy on them. The government considers that wherever overt surveillance in public places is in pursuit of a legitimate aim and meets a pressing need, any such surveillance should be characterised as surveillance by consent, and such consent on the part of the community must be informed consent and not assumed by a system operator. Surveillance by consent should be regarded as analogous to policing by consent. In the British model of policing, police officers are citizens in uniform. They exercise their powers to police their fellow citizens with the implicit consent of their fellow citizens. Policing by consent is the phrase used to describe this. It denotes that the legitimacy of policing in the eyes of the public is based upon a general consensus of support that follows from transparency about their powers, demonstrating integrity in exercising those powers and their accountability for doing so.
- 1.6 In order to achieve this, the code sets out guiding principles that should apply to all surveillance camera systems in public places. These guiding principles are designed to provide a framework for operators and users of surveillance camera systems so that there is proportionality and transparency in their use of surveillance, and systems are capable of providing good quality images and other information which are fit for purpose.
- 1.7 To support the practical application of these guiding principles by a system operator, the Surveillance Camera Commissioner will provide information and advice on appropriate and approved operational and technical standards for various aspects of surveillance camera systems and on appropriate and approved occupational and competency standards for persons using these systems or processing images and information obtained by these systems to supplement this code.
- 1.8 This code has been developed to address concerns over the potential for abuse or misuse of surveillance by the state in public places, with the activities of local authorities and the police the initial focus of regulation. However, the government fully recognises that many surveillance camera systems within public places are operated by the private sector, by the third sector or by other public authorities (for example, shops and shopping centres, sports grounds and other sports venues, schools, transport systems and hospitals). Informed by advice from the Surveillance Camera Commissioner, the government will keep the code under review and may in due course consider adding others to the list of relevant authorities pursuant to section 33(5)(k) of the 2012 Act.

² A public authority will be bound by the Human Rights Act 1998 and will therefore be required to demonstrate a pressing need when undertaking surveillance as this may interfere with the qualified right to respect for private and family life provided under Article 8 of the European Charter of Human Rights. This is the case whether or not that public authority is a relevant authority. A system operator who is not a public authority should nevertheless satisfy themselves that any surveillance is necessary and proportionate.

Scope of surveillance activity to which this code applies

- 1.9 The code applies to the use of surveillance camera systems as defined in paragraph 1.1 that operate in public places in England and Wales, regardless of whether or not there is any live viewing, or recording of images or information or associated data.
- 1.10 Covert surveillance by public authorities (as defined in Part II of the 2000 Act) is not covered by this code but is regulated by the 2000 Act. Covert surveillance in public places by those who do not fall within the 2000 Act (for example, the private operator of a surveillance camera system in a shopping centre) may be used as part of a specific investigation in exceptional and justifiable circumstances. Any such covert use of private systems by or on behalf of a public authority (with the authority's knowledge) immediately places such use within the bounds of the 2000 Act.

Effect of the Code

- 1.11 A relevant authority must follow a duty to have regard to the guidance in this code when, in exercising any of its functions, it considers that the future deployment or continued deployment of surveillance camera systems to observe public places may be appropriate. This can include the operation or use of any surveillance camera systems, or the use or processing of images or other information obtained by virtue of such systems. The duty to have regard to this code also applies when a relevant authority uses a third party to discharge relevant functions covered by this code and where it enters into partnership arrangements. Contractual provisions agreed after this code comes into effect with such third party service providers or partners must ensure that contractors are obliged by the terms of the contract to have regard to the code when exercising functions to which the code relates. The duty to have regard does not extend to such third party service providers or partners unless they themselves are a relevant authority.
- 1.12 When a relevant authority in England has civil parking enforcement functions under the Traffic Management Act 2004 or bus lane enforcement functions under the Transport Act 2000, and considers the use of surveillance camera systems in exercising those functions, it must have regard to the guidance in this code. The primary purpose of any surveillance camera system used as part of civil enforcement arrangements must be the safe and efficient operation of the road network by deterring motorists from contravening parking or road traffic restrictions. Motorists may regard enforcement by cameras as over-zealous and relevant authorities should use them sparingly. Such systems should, therefore, only be deployed where other means of enforcement are not practical and their effectiveness in achieving this purpose is subject to regular review. Where there is any conflict between this code and the secondary legislation made under the Traffic Management Act 2004 or the Transport Act 2000 relevant to those functions or the statutory guidance issued under section 87 of the Traffic Management Act 2004, the provisions made in or under the Traffic Management Act 2004 and the Transport Act 2000 shall apply.
- 1.13 When a relevant authority in England has civil enforcement functions for moving traffic contraventions under the London Local Authorities Act 1996 Part 2, the London Local Authorities Act 2000 Schedule 2 and the London Local Authorities and Transport for London Act 2003 Part 2, and considers the use of surveillance camera systems in exercising those functions, it must have regard to the guidance in this code. The primary purpose of any surveillance camera system used as part of civil enforcement arrangements must be the safe and efficient operation of the road network by deterring

motorists from contravening parking or road traffic restrictions. Motorists may regard enforcement by cameras as over-zealous and relevant authorities should use them sparingly. Such systems should , therefore, only be deployed where other means of enforcement are not practical and their effectiveness in achieving this purpose is subject to regular review. Where there is any conflict between this code and London Local Authorities Act 1996 Part 2, the London Local Authorities Act 2000 Schedule 2 and the London Local Authorities and Transport for London Act 2003 Part 2 relevant to those functions then that legislation shall apply.

- 1.14 When a relevant authority in Wales has civil parking, bus lane or moving traffic enforcement functions under the Traffic Management Act 2004 and considers the use of surveillance camera systems in exercising those functions, it must have regard to the guidance in this code. The primary purpose of any surveillance camera system used as part of civil enforcement arrangements must be the safe and efficient operation of the road network by deterring motorists from contravening parking or road traffic restrictions. Motorists may regard enforcement by cameras as over-zealous and relevant authorities should use them sparingly. Such systems should , therefore, only be deployed where other means of enforcement are not practical and their effectiveness in achieving this purpose is subject to regular review. Where there is any conflict between this code and the secondary legislation made under the Traffic Management Act 2004 relevant to those functions or the Statutory Guidance documents issued by the Welsh Government under section 87 of the Traffic Management Act 2004, then that legislation and guidance shall apply.
- 1.15 When a relevant authority has licensing functions and considers the use of surveillance camera systems as part of the conditions attached to a licence or certificate, it must in particular have regard to guiding principle one in this code. Any proposed imposition of a blanket requirement to attach surveillance camera conditions as part of the conditions attached to a licence or certificate is likely to give rise to concerns about the proportionality of such an approach and will require an appropriately strong justification and must be kept under regular review. Applications in relation to licensed premises must take into account the circumstances surrounding that application and whether a requirement to have a surveillance camera system is appropriate in that particular case. For example, it is unlikely that a trouble-free community pub would present a pressing need such that a surveillance camera condition would be justified. In such circumstances where a licence or certificate is granted subject to surveillance camera system conditions, the consideration of all other guiding principles in this code is a matter for the licensee as the system operator.
- 1.16 A failure on the part of any person to act in accordance with any provision of this code does not of itself make that person liable to criminal or civil proceedings. This code is, however, admissible in evidence in criminal or civil proceedings, and a court or tribunal may take into account a failure by a relevant authority to have regard to the code in determining a question in any such proceedings.
- 1.17 Other operators of surveillance camera systems who are not defined as relevant authorities are encouraged to adopt this code and its guiding principles voluntarily and make a public commitment to doing so. Such system operators are not, however, bound by any duty to have regard to this code.

Relevant documents

- 1.18 The Information Commissioner's CCTV Code of Practice provides good practice guidance for those involved in operating CCTV and other surveillance camera systems which view or record images of individuals including information derived from those images that may be related to them such as a vehicle registration mark. Its primary purpose is to help those involved in such activities to comply with their legal obligations under the 1998 Act.
- 1.19 The covert surveillance and property interference code of practice published by the Home Office provides statutory guidance on the use of covert surveillance by public authorities under the 2000 Act. Further guidance on the application of the 2000 Act is available from the Office of the Surveillance Commissioners.
- 1.20 This code provides guidance on the use of surveillance camera systems but does not replace or remove any statutory obligations on operators or users of such systems to comply with the provisions of both the 1998 Act and the 2000 Act.

Chapter 2: Overview and Guiding Principles

- 2.1 Modern and forever advancing surveillance camera technology provides increasing potential for the gathering and use of images and associated information. These advances vastly increase the ability and capacity to capture, store, share and analyse images and information. This technology can be a valuable tool in the management of public safety and security, in the protection of people and property, in the prevention and investigation of crime, and in bringing crimes to justice. Technological advances can also provide greater opportunity to safeguard privacy. Used appropriately, current and future technology can and will provide a proportionate and effective solution where surveillance is in pursuit of a legitimate aim and meets a pressing need.
- 2.2 In general, any increase in the capability of surveillance camera system technology also has the potential to increase the likelihood of intrusion into an individual's privacy. The Human Rights Act 1998 gives effect in UK law to the rights set out in the European Convention on Human Rights (ECHR). Some of these rights are absolute, whilst others are qualified, meaning that it is permissible for the state to interfere with the right provided that the interference is in pursuit of a legitimate aim and the interference is proportionate. Amongst the qualified rights is a person's right to respect for their private and family life, home and correspondence, as provided for by Article 8 of the ECHR³.
- 2.3 That is not to say that all surveillance camera systems use technology which has a high potential to intrude on the right to respect for private and family life. Yet this code must regulate that potential, now and in the future. In considering the potential to interfere with the right to privacy, it is important to take account of the fact that expectations of privacy are both varying and subjective. In general terms, one of the variables is situational, and in a public place there is a zone of interaction with others which may fall within the scope of private life. An individual can expect to be the subject of surveillance in a public place as CCTV, for example, is a familiar feature in places that the public frequent. An individual can, however, rightly expect surveillance in public places to be both necessary and proportionate, with appropriate safeguards in place.

3 Article 8 of the European Charter on Human Rights reads as follows:

Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

- 2.4 The decision to use any surveillance camera technology must, therefore, be consistent with a legitimate aim and a pressing need. Such a legitimate aim and pressing need must be articulated clearly and documented as the stated purpose for any deployment. The technical design solution for such a deployment should be proportionate to the stated purpose rather than driven by the availability of funding or technological innovation. Decisions over the most appropriate technology should always take into account its potential to meet the stated purpose without unnecessary interference with the right to privacy and family life. Furthermore, any deployment should not continue for longer than necessary.
- 2.5 The starting point for a system operator in achieving the most appropriate balance between public protection and individual privacy and thereby achieving overt surveillance by consent is to adopt a single set of guiding principles that are applicable to all surveillance camera systems in public places. Following these guiding principles allows a system operator to establish a clear rationale for any overt surveillance camera deployment in public places, to run any such system effectively, helps ensure compliance with other legal duties and to maximise the likelihood of achieving surveillance by consent.

Guiding Principles

2.6 System operators should adopt the following 12 guiding principles:

1. Use of a surveillance camera system must always be for a specified purpose which is in pursuit of a legitimate aim and necessary to meet an identified pressing need.
2. The use of a surveillance camera system must take into account its effect on individuals and their privacy, with regular reviews to ensure its use remains justified.
3. There must be as much transparency in the use of a surveillance camera system as possible, including a published contact point for access to information and complaints.
4. There must be clear responsibility and accountability for all surveillance camera system activities including images and information collected, held and used.
5. Clear rules, policies and procedures must be in place before a surveillance camera system is used, and these must be communicated to all who need to comply with them.
6. No more images and information should be stored than that which is strictly required for the stated purpose of a surveillance camera system, and such images and information should be deleted once their purposes have been discharged.
7. Access to retained images and information should be restricted and there must be clearly defined rules on who can gain access and for what purpose such access is granted; the disclosure of images and information should only take place when it is necessary for such a purpose or for law enforcement purposes.
8. Surveillance camera system operators should consider any approved operational, technical and competency standards relevant to a system and its purpose and work to meet and maintain those standards.
9. Surveillance camera system images and information should be subject to appropriate security measures to safeguard against unauthorised access and use.

10. There should be effective review and audit mechanisms to ensure legal requirements, policies and standards are complied with in practice, and regular reports should be published.
11. When the use of a surveillance camera system is in pursuit of a legitimate aim, and there is a pressing need for its use, it should then be used in the most effective way to support public safety and law enforcement with the aim of processing images and information of evidential value.
12. Any information used to support a surveillance camera system which compares against a reference database for matching purposes should be accurate and kept up to date.

Chapter 3: The development or use of surveillance camera systems

This chapter expands on guiding principles 1-4 which address the development or use of surveillance camera systems

Principle 1 - Use of a surveillance camera system must always be for a specified purpose which is in pursuit of a legitimate aim and necessary to meet an identified pressing need.

- 3.1.1 Surveillance camera systems operating in public places must always have a clearly defined purpose or purposes in pursuit of a legitimate aim and necessary to address a pressing need (or needs). Such a legitimate aim and pressing need might include national security, public safety, the economic well-being of the country, the prevention of disorder or crime, the protection of health or morals, or the protection of the rights and freedoms of others. That purpose (or purposes) should be capable of translation into clearly articulated objectives against which the ongoing requirement for operation or use of the systems and any images or other information obtained can be assessed.
- 3.1.2 In assessing whether a system will meet its objectives, and in designing the appropriate technological solution to do so, a system operator should always consider the requirements of the end user of the images, particularly where the objective can be characterised as the prevention, detection and investigation of crime and the end user is likely to be the police and the criminal justice system.
- 3.1.3 A surveillance camera system should only be used in a public place for the specific purpose or purposes it was established to address. It should not be used for other purposes that would not have justified its establishment in the first place. Any proposed extension to the purposes for which a system was established and images and information are collected should be subject to consultation before any decision is taken.

Principle 2 - The use of a surveillance camera system must take into account its effect on individuals and their privacy, with regular reviews to ensure its use remains justified.

- 3.2.1 The right to respect for private and family life set out in Article 8 of the ECHR enshrines in law a long held freedom enjoyed in England and Wales. People do, however, have varying and subjective expectations of privacy with one of the variables being situational. Deploying surveillance camera systems in public places where there is a particularly high expectation of privacy, such as toilets or changing rooms, should only be done to address a particularly serious problem that cannot be addressed by less intrusive means. Such deployment should be subject to regular review, at least annually, to ensure it remains necessary.

- 3.2.2 Any proposed deployment that includes audio recording in a public place is likely to require a strong justification of necessity to establish its proportionality. There is a strong presumption that a surveillance camera system must not be used to record conversations as this is highly intrusive and unlikely to be justified.
- 3.2.3 Any use of facial recognition or other biometric characteristic recognition systems needs to be clearly justified and proportionate in meeting the stated purpose, and be suitably validated⁴. It should always involve human intervention before decisions are taken that affect an individual adversely.
- 3.2.4 This principle points to the need for a privacy impact assessment process to be undertaken whenever the development or review of a surveillance camera system is being considered to ensure that the purpose of the system is and remains justifiable, there is consultation with those most likely to be affected, and the impact on their privacy is assessed and any appropriate safeguards can be put in place. Where such an assessment follows a formal and documented process, such processes help to ensure that sound decisions are reached on implementation and on any necessary measures to safeguard against disproportionate interference with privacy. In the case of a public authority, this also demonstrates that both the necessity and extent of any interference with Article 8 rights has been considered.
- 3.2.5 A privacy impact assessment also helps assure compliance with obligations under the 1998 Act. Comprehensive guidance on undertaking a privacy impact assessment is available from the Information Commissioner's Office. This encourages organisations to devise and implement an assessment process that is appropriate and proportionate to their circumstances.

Principle 3 - There must be as much transparency in the use of a surveillance camera system as possible, including a published contact point for access to information and complaints.

- 3.3.1 People in public places should normally be made aware whenever they are being monitored by a surveillance camera system, who is undertaking the activity and the purpose for which that information is to be used. This is an integral part of overt surveillance and is already a legal obligation under the 1998 Act. Furthermore, such awareness on the part of the public supports and informs the concept of surveillance by consent.
- 3.3.2 Surveillance by consent is dependent upon transparency and accountability on the part of a system operator. The provision of information is the first step in transparency, and is also a key mechanism of accountability. In the development or review of any surveillance camera system, proportionate consultation and engagement with the public and partners (including the police) will be an important part of assessing whether there is a legitimate aim and a pressing need, and whether the system itself is a proportionate response. Such consultation and engagement also provides an opportunity to identify any concerns and modify the proposition to strike the most appropriate balance between public protection and individual privacy.

⁴ The Surveillance Camera Commissioner will be a source of advice on validation of such systems.

- 3.3.3. This means ensuring effective engagement with representatives of those affected and in particular where the measure may have a disproportionate impact on a particular community. It is important that consultation is meaningful and undertaken at a stage when there is a realistic prospect of influencing developments.
- 3.3.4 System operators should be proactive in the provision of regularly published information about the purpose, operation and effect of a system. This is consistent with the government's commitment to greater transparency on the part of public bodies.
- 3.3.5 In addition to the proactive publication of information about the stated purpose of a surveillance camera system, good practice includes considering the publication of information on the procedures and safeguards in place, impact assessments undertaken, performance statistics and other management information and any reviews or audits undertaken. Public authorities should consider including this information as part of their publication schemes under the Freedom of Information Act 2000.
- 3.3.6 This is not to imply that the exact location of surveillance cameras should always be disclosed if to do so would be contrary to the interests of law enforcement or national security.
- 3.3.7 A system operator should have an effective procedure for handling concerns and complaints from individuals and organisations about the use of surveillance camera systems. Information about complaints procedures should be made readily available to the public. Where a complaint is made and the complainant not satisfied with the response there should be an internal review mechanism in place using a person not involved in handling the initial complaint. Complaints must be handled in a timely fashion and complainants given an indication of how long a complaint may take to handle at the outset.
- 3.3.8 Once a complaint has been concluded information should be provided to the complainant about any regulatory bodies who may have jurisdiction in that case such as the Information Commissioner or the Investigatory Powers Tribunal.
- 3.3.9 Where a complaint or other information comes to the attention of a relevant authority or other system operator that indicates criminal offences may have been committed in relation to a surveillance camera system then these matters should be referred to the appropriate body, such as the police or the Information Commissioner for any offences under the 1998 Act.
- 3.3.10 In line with government commitment towards greater transparency on the part of public authorities a system operator should publish statistical information about the number and nature of complaints received and how these have been resolved on an annual basis at least.
- 3.3.11 The government's further commitment to 'open data' means that public authorities should consider making information available in reusable form so others can develop services based on this data. This would extend to information about surveillance camera systems.
- 3.3.12 The Surveillance Camera Commissioner has no statutory role in relation to the investigation and resolution of complaints. System operators should, however, be prepared to share information about the nature of complaints with the Surveillance Camera Commissioner on an ad hoc and where appropriate anonymised basis to assist in any review of the operation of this code of practice.

Principle 4 - There must be clear responsibility and accountability for all surveillance camera system activities including images and information collected, held and used.

- 3.4.1 Persons considering the need to develop a surveillance camera system should give due consideration to the establishment of proper governance arrangements. There must be clear responsibility and accountability for such a system. It is good practice to have a designated individual responsible for the development and operation of a surveillance camera system, for ensuring there is appropriate consultation and transparency over its purpose, deployment and for reviewing how effectively it meets its purpose.
- 3.4.2 Where a system is jointly owned or jointly operated, the governance and accountability arrangements should be agreed between the partners and documented so that each of the partner organisations has clear responsibilities, with clarity over obligations and expectations and procedures for the resolution of any differences between the parties or changes of circumstance.
- 3.4.3 A surveillance camera system may be used for more than one purpose. For example, one purpose might be crime prevention and detection, and another traffic management. Accountability for each purpose may rest within different elements of a system operator's management structure. Should that be the case, then it is good practice for the governance arrangements to include those accountable for each purpose and facilitate effective joint working, review and audit, decision making and public engagement.

Chapter 4: The use or processing of images or other information obtained by virtue of such systems

This chapter expands on guiding principles 5-12 which address the use or processing of images and information.

Principle 5 - Clear rules, policies and procedures must be in place before a surveillance camera system is used, and these must be communicated to all who need to comply with them.

- 4.5.1 There are significant benefits in having clear policies and procedures for the operation of any surveillance. This can not only aid the effective management and use of a surveillance camera system but also help ensure that any legal obligations affecting the use of such a system are addressed.
- 4.5.2 A surveillance camera system operator is encouraged to follow a quality management system as a major step forward in controlling and improving their key processes. Where this is done through certification against a quality management standard it can provide a robust operating environment with the additional benefit of reassurance for the public that the system is operated responsibly and effectively, and the likelihood of any breach of individual privacy is greatly reduced.
- 4.5.3 It is good practice that the communication of rules, policies and procedures should be done as part of the induction and ongoing professional training and development of all system users. This should maximise the likelihood of compliance by ensuring system users are competent, have relevant skills and training on the operational, technical and privacy considerations and fully understand the policies and procedures. It is requirement of the 1998 Act that organisations ensure the reliability of staff having access to personal data, including images and information obtained by surveillance camera systems.
- 4.5.4 Wherever there are occupational standards available which are relevant to the roles and responsibilities of their system users, a systems operator should consider the benefits and any statutory requirements associated with such occupational standards.
- 4.5.5 The Surveillance Camera Commissioner will provide advice and guidance on relevant quality management and occupational competency standards.
- 4.5.6 Wherever a surveillance camera system covers public space a system operator should be aware of the statutory licensing requirements of the Private Security Industry Act 2001. Under these requirements, the Security Industry Authority (SIA) is charged with licensing individuals working in specific sectors of the private security industry. A public space surveillance (CCTV) licence is required when operatives are supplied under a contract for services. It is a criminal offence for staff to carry out licensable activities without an SIA licence.

- 4.5.7 SIA licensing is dependent upon evidence that an individual is fit and proper to fulfil the role, and evidence of their ability to fulfil a role effectively and safely with the right skills and knowledge. There are various relevant qualifications available, and training to attain these is delivered by a range of different accredited providers.
- 4.5.8 Even where there is no statutory licensing requirement, it is good practice for a system operator to ensure that all staff who either manage or use a surveillance camera system, or use or process the images and information obtained by virtue of such systems have the necessary skills and knowledge.

Principle 6 - No more images and information should be stored than that which is strictly required for the stated purpose of a surveillance camera system, and such images and information should be deleted once their purposes have been discharged.

- 4.6.1 Images and information obtained from a surveillance camera system should not be kept for longer than necessary to fulfil the purpose for which they were obtained in the first place. This period should be decided in advance and be the minimum period necessary. This is also a requirement of the 1998 Act and further guidance on this is contained in the ICO CCTV code of practice.
- 4.6.2 The retention period for different surveillance camera systems will vary due to the purpose for the system and how long images and other information need to be retained so as to serve its intended purpose. It is not, therefore, possible to be prescriptive about maximum or minimum periods. Initial retention periods should be reviewed by a system operator and reset in the light of experience. A proportionate approach should always be used to inform retention periods and these should not be based upon infrequent exceptional cases.
- 4.6.3 Although images and other information should not be kept for longer than necessary to meet the purposes for recording them, on occasions, a system operator may need to retain images for a longer period, for example where a law enforcement body is investigating a crime to give them the opportunity to view the images as part of an active investigation.

Principle 7 - Access to retained images and information should be restricted and there must be clearly defined rules on who can gain access and for what purpose such access is granted; the disclosure of images and information should only take place when it is necessary for such a purpose or for law enforcement purposes.

- 4.7.1 The disclosure of images and other information obtained from a surveillance camera system must be controlled and consistent with the stated purpose for which the system was established. Disclosure of images or information may be appropriate where the 1998 Act makes exemptions which allow it provided that the applicable requirements of the 1998 Act are met, or where permitted by other legislation such as the Counter Terrorism Act 2008. These exemptions include where non-disclosure would be likely to prejudice the prevention and detection of crime, and for national security purposes. Where a system operator declines a request for disclosure from a law enforcement agency there is provision under Section 9 of and Schedule 1 to the Police and Criminal Evidence Act 1984 to seek a production order from a magistrate.

- 4.7.2 There may be other limited occasions when disclosure of images to another third party, such as a person whose property has been damaged, may be appropriate. Such requests for images or information should be approached with care and in accordance with the 1998 Act, as a wide disclosure may be an unfair intrusion into the privacy of the individuals concerned.
- 4.7.3 A system operator should have clear policies and guidelines in place to deal with any requests that are received. In particular:
- Arrangements should be in place to restrict disclosure of images in a way consistent with the purpose for establishing the system.
 - Where images are disclosed consideration should be given to whether images of individuals need to be obscured to prevent unwarranted identification.
 - Those that may handle requests for disclosure should have clear guidance on the circumstances in which disclosure is appropriate.
 - The method of disclosing images should be secure to ensure they are only seen by the intended recipient.
 - Appropriate records should be maintained.
- 4.7.4 Judgements about disclosure should be made by a system operator. They have discretion to refuse any request for information unless there is an overriding legal obligation such as a court order or information access rights. Once they have disclosed an image to another body, such as the police, then the recipient becomes responsible for their copy of that image. If the recipient is a relevant authority, it is then the recipient's responsibility to have regard to this code of practice and to comply with any other legal obligations such as the 1998 Act and the Human Rights Act 1998 in relation to any further disclosures.
- 4.7.5 Individuals can request images and information about themselves through a subject access request under the 1998 Act. Detailed guidance on this and matters such as when to withhold images of third parties caught in images is included in the ICO CCTV code of practice.
- 4.7.6 Requests for information from public bodies may be made under the Freedom of Information Act 2000. Detailed guidance on these obligations is included in the ICO CCTV code of practice.

Principle 8 - Surveillance camera system operators should consider any approved operational, technical and competency standards relevant to a system and its purpose and work to meet and maintain those standards.

- 4.8.1 Approved standards may apply to the system functionality, the installation and the operation and maintenance of a surveillance camera system. These are usually focused on typical CCTV installations, however there may be additional standards applicable where the system has specific advanced capability such as ANPR, video analytics or facial recognition systems, or where there is a specific deployment scenario, for example the use of body-worn video recorders.

- 4.8.2 Approved standards are available to inform good practice for the operation of surveillance camera systems, including those developed domestically by the British Standards Institute, at a European level by the Comité Européen de Normalisation Électrotechnique⁵, or at a global level by the International Electrotechnical Commission. A system operator should consider any approved standards which appear relevant to the effective application of technology to meet the purpose of their system, and taking steps to secure certification against those standards.
- 4.8.3 Such certification is likely to involve assessment by an independent certification body. This has benefits for a system operator in that the effectiveness of a system is likely to be assured and in demonstrating to the public that suitable standards are in place and being followed.
- 4.8.4 A current list of recommended standards for consideration by a system operator will be maintained and made available by the Surveillance Camera Commissioner. Such a list will provide detailed guidance on suitable standards and the bodies that are able to accredit performance against such standards.

Principle 9 Surveillance camera system images and information should be subject to appropriate security measures to safeguard against unauthorised access and use.

- 4.9.1 Putting effective security safeguards in place helps ensure the integrity of images and information should they be necessary for use as evidence in legal proceedings. This also helps to foster public confidence in system operators and how they approach the handling of images and information.
- 4.9.2 Under the 1998 Act, those operating surveillance camera systems or who use or process images and information obtained by such systems must have a clearly defined policy to control how images and information are stored and who has access to them. The use or processing of images and information should be consistent with the purpose for deployment, and images should only be used for the stated purpose for which collected.
- 4.9.3 Security extends to technical, organisational and physical security and there need to be measures in place to ensure that this is the case and guard against unauthorised use, access or disclosure. The ICO CCTV code of practice gives helpful guidance on achieving this in practice.

Principle 10 - There should be effective review and audit mechanisms to ensure legal requirements, policies and standards are complied with in practice, and regular reports should be published.

- 4.10.1 Good practice dictates that a system operator should review the continued use of a surveillance camera system on a regular basis, at least annually, to ensure it remains necessary, proportionate and effective in meeting its stated purpose for deployment.
- 4.10.2 As part of the regular review of the proportionality and effectiveness of a surveillance camera system a system operator should assess whether the location of cameras remains justified in meeting the stated purpose and whether there is a case for removal or relocation.

⁵ CENELEC is also known as the European Committee for Electrotechnical Standardization

- 4.10.3 In reviewing the continued use of a surveillance camera system a system operator should consider undertaking an evaluation to enable comparison with alternative interventions with less risk of invading individual privacy, and different models of operation (to establish for example any requirement for 24 hour monitoring). In doing so, there should be consideration of an assessment of the future resource requirements for meeting running costs, including staffing, maintenance and repair.
- 4.10.4 A system operator should make a summary of such a review available publicly as part of the transparency and accountability for the use and consequences of its operation.

Principle 11 - When the use of a surveillance camera system is in pursuit of a legitimate aim, and there is a pressing need for its use, it should then be used in the most effective way to support public safety and law enforcement with the aim of processing images and information of evidential value.

- 4.11.1 The effectiveness of a surveillance camera system will be dependent upon its capability to capture, process, analyse and store images and information at a quality which is suitable for its intended purpose. Wherever the purpose of a system includes crime prevention, detection and investigation, it should be capable through processes, procedures and training of system users, of delivering images and information that is of evidential value to the criminal justice system. Otherwise, the end user of the images, who are likely to be the police and the criminal justice system, will not be able to play their part effectively in meeting the intended purpose of the system.
- 4.11.2 It is important that there are effective safeguards in place to ensure the forensic integrity of recorded images and information and its usefulness for the purpose for which it is intended to be used. Recorded material should be stored in a way that maintains the integrity of the image and information, with particular importance attached to ensuring that meta data (e.g. time, date and location) is recorded reliably, and compression of data does not reduce its quality. This is to ensure that the rights of individuals recorded by a surveillance camera system are protected and that the material can be used as evidence in court. To do this the medium on which the images and information are stored will be important, and access must be restricted. A record should be kept as an audit trail of how images and information are handled if they are likely to be used as exhibits for the purpose of criminal proceedings in court. Once there is no longer a clearly justifiable reason to retain the recorded images and information, they should be deleted.
- 4.11.3 It is important that digital images and other related information can similarly be shared with ease with appropriate law enforcement agencies if this is envisaged when establishing a system. If this interoperability cannot be readily achieved it may undermine the purpose for deploying the system.
- 4.11.4 It is therefore essential that any digital images and information likely to be shared with law enforcement agencies and the criminal justice system are in a data format that is interoperable and can be readily exported, and then stored and analysed without any loss of forensic integrity. In particular:

- A system user should be able to export images and information from a surveillance camera system when requested by a law enforcement agency.
- The export of images and information should be possible without interrupting the operation of the system.
- The exported images and information should be in a format which is interoperable and can be readily accessed and replayed by a law enforcement agency.
- The exported images and information must preserve the quality of the original recording and any associated meta data (e.g. time, date and location).

Principle 12 - Any information used to support a surveillance camera system which compares against a reference database for matching purposes should be accurate and kept up to date.

- 4.12.1 Any use of technologies such as ANPR or facial recognition systems which may rely on the accuracy of information generated elsewhere such as databases provided by others should not be introduced without regular assessment to ensure the underlying data is fit for purpose.
- 4.12.2 A system operator should have a clear policy to determine the inclusion of a vehicle registration number or a known individual's details on the reference database associated with such technology. A system operator should ensure that reference data is not retained for longer than necessary to fulfil the purpose for which it was originally added to a database.
- 4.12.3 There may be occasions when the inclusion of information about an individual in a reference database with the intention of undertaking surveillance can be considered as covert surveillance and thus fall within the bounds of the 2000 Act. Further guidance on the application of the 2000 Act is available in the Home Office statutory covert surveillance and property interference code of practice and from the Office of the Surveillance Commissioners.

Chapter 5: Surveillance Camera Commissioner

- 5.1 The Surveillance Camera Commissioner, (the commissioner), is a statutory appointment made by the Home Secretary under Section 34 of the 2012 Act. The commissioner's statutory functions are:
- a) encouraging compliance with this code;
 - b) reviewing the operation of this code; and
 - c) providing advice about this code (including changes to it or breaches of it).
- 5.2 In order to fulfil these functions effectively, the commissioner must work closely with other regulators including the Information Commissioner and the Chief Surveillance Commissioner. It is for the commissioner and other regulators to determine how best to maintain and formalise these relationships, to agree gateways through which issues flow between the public and the commissioners and how best to publicise and report on arrangements to support these relationships which will be critical in ensuring the success of the code in meeting its purpose.

Ways of working

- 5.3 The commissioner has no enforcement or inspection powers. In encouraging compliance with the code he should consider how best to ensure that relevant authorities are aware of their duty to have regard for the code and how best to encourage its voluntary adoption by other operators of surveillance camera systems.
- 5.4 The commissioner is expected to provide advice about the relevant operational, technical, quality management and occupational competency standards which are available for a system operator. A system operator can then consider these standards in determining how best to meet the purpose of their surveillance camera system whilst meeting legal obligations, making effective use of it, and safeguarding privacy considerations. Such advice can be updated to reflect developments in both the available technology and professional practice.
- 5.5 In reviewing the operation of the code, the commissioner should consider the impact of this system of regulation against published success criteria and the opportunities to improve compliance in line with better regulation principles.
- 5.6 The commissioner should provide advice and information to the public and system operators about the effective, appropriate, proportionate and transparent use of surveillance camera systems and should consider how best to make that information available. Such advice should complement the content of this code, and may for example provide additional detail on good practice, advice on the effectiveness of surveillance cameras and how this might be assessed, or on the proportionate application of any new technological developments in surveillance camera systems. Such advice could, for example, include the preparation of a manual of regulation that sets out how the commissioner will fulfil his functions.

- 5.7 The commissioner may establish a non statutory advisory council with specialist sub-groups to support him in fulfilling his functions. Any advisory council or specialist sub-group must have representation from such persons appearing to the commissioner to be representative of the views of relevant authorities and from the Home Office.
- 5.8 The commissioner must prepare a report about the exercise of his functions during the reporting period, and:
- a) give a copy of the report to the Secretary of State;
 - b) the Secretary of State must lay a copy of the report before Parliament; and
 - c) the commissioner must publish the report.
- 5.9 The reporting periods are set out in Section 35 of the 2012 Act.



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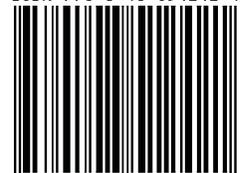
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