

**To:** General Purposes Licensing Committee

**Date:** 21 May 2013 **Item No:**

**Report of:** Head of Law and Governance & Head of Environmental Development

**Title of Report:** Audio visual recording in licensed vehicles - Update

### **Summary and Recommendations**

**Purpose of report:** To update Committee following its resolution of 28<sup>th</sup> May 2012 to suspend the requirement for audio visual recording.

**Report Approved by:**

**Finance:** Paul Swaffield

**Legal:** Jeremy Thomas

**Policy Framework:** Vibrant Sustainable Economy

**Recommendation(s):**

**The Committee is recommended to:**

- (i) note the contents of the report; and**
- (ii) agree not to implement the audio visual recording scheme at this time.**
- (iii) agree not to require any further consultation be carried out.**

### **Introduction**

1. During 2011/12, in response to driver and passenger safety concerns expressed by the licensed taxi trade, the Licensing Authority formulated and consulted on a Scheme for the introduction of compulsory audio visual recording in licensed vehicles.
2. In May 2012 Committee reconsidered the Scheme following a petition in opposition submitted by a number of self employed drivers and data protection concerns raised by the Information Commissioners Office (ICO) in a preliminary enforcement notice.
3. On 28<sup>th</sup> May 2012 Committee resolved to suspend the Scheme pending further consultation and the outcome of the Law Commission review on reform of taxi and private hire licensing.

4. The Scheme remains suspended at this time.

### **Recent Events**

5. In February 2013 The First Tier Tribunal (Information Rights) heard an appeal brought by Southampton City Council against an enforcement notice issued by the ICO. Southampton operate an audio visual recording scheme very similar to that proposed for Oxford and were subject of an enforcement notice brought by the ICO based on the same data protection and privacy reasons raised with Oxford.
6. The Tribunal found in favour of the ICO (decision attached at **Appendix A**). Despite safeguards similar to those in the Oxford Scheme the Tribunal found the audio recording element of Southampton's scheme to be an unjustified and disproportionate interference with the right to privacy of drivers and passengers. Until such time as the law in this area changes or public safety issues significantly worsen, it is likely Oxford's scheme would be found to be similarly unlawful if implemented.
7. On 9<sup>th</sup> April 2013 The Law Commission issued an interim statement on its review of taxi and private hire services. There is nothing in the statement, nor likely to be in the final review, that supports or relates to audio visual recording in licensed vehicles.

### **Further consultation**

8. Pending the outcome of the situation in Southampton and the decision of the First Tier Tribunal no further consultation has yet been carried out.
9. Given the clear conclusions now reached by the Tribunal implementing the Scheme is not currently an option and pursuing further consultation on it at this time would therefore be redundant.

In light of the above Committee is invited to agree not to implement the Scheme nor require any further consultation be carried out. If the situation changes in the future the Scheme could be re-examined.

### **Financial implications**

10. There are no financial implications associated with this report

### **Legal implications**

11. Any legal implications are covered elsewhere in the report.

## **Recommendations**

12. The Committee is recommended to:
- (i) note the content of the report; and
  - (ii) Agree not to implement the audio visual recording scheme at this time.
  - (iii) Agree not to require any further consultation be carried out.

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