



**SURVEILLANCE CAMERA  
COMMISSIONER**

# **Response to the consultation on the Draft National Surveillance Camera Strategy for England and Wales**

**March 2017**



## INTRODUCTION

1. This consultation sought views on the scope, objectives, governance, content and strands of the draft national surveillance camera strategy for England and Wales.
2. Under the Protection of Freedoms Act 2012 (PoFA), the secretary of state issued the surveillance camera code of practice (SC Code) with 12 guiding principles on the appropriate and effective use of surveillance camera systems. 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 need; proportionate; effective, and; compliant with any relevant legal obligations.
3. This strategy aims to develop a holistic approach to raising standards and compliance with legal obligations in line with the 12 guiding principles of the SC Code by working in partnership with leaders from various sectors within the surveillance camera industry.
4. This will mean that where overt surveillance cameras are used in public space, it is done efficiently, proportionately and effectively thereby enhancing public support and trust as well as ensuring an individuals' right to privacy as set out in Article 8 of the European Convention of Human Rights is protected.

The consultation ran from 25 October 2016 until 6 December 2016. It invited responses through an online survey, by email or post. In addition to these responses the Commissioner attended and facilitated a number of events where the draft strategy was discussed.

5. This document provides a summary of the responses and outlines the next steps in the development of the strategy.

## OVERVIEW OF RESPONSES

### Survey Responses

6. We received 129 responses (of which 70 were partial responses) to the consultation through the online survey. The profile of the respondents to the consultation survey is shown below.

	Organisation	Response Percent	Response Total
1	Local authority	37.50%	21
2	Police Force	3.57%	2
3	Police and Crime Commissioner	0.00%	0
4	Local Councillor	0.00%	0
5	Surveillance Camera system operator (public authority)	1.79%	1
6	Surveillance Camera system operator (non public authority)	1.79%	1
7	Surveillance camera system designer, supplier, installer or maintainer	3.57%	2
8	Security supplier	3.57%	2
9	Regulator body, standards body or inspectorate	7.14%	4

10	Civil liberties charity/organisation/pressure group	1.79%	1
11	Representative body	1.79%	1
12	Member of the public	28.57%	16
13	Other (please specify)	8.93%	5

7. Only 56 people answered this question.

## Summary of survey responses

8. The survey invited views on specific issues and provided an opportunity for respondents to give a more detailed response to the proposals. The key points from the survey are set out below:

### Question 1: To what extent do you agree or disagree with the following statements regarding the national surveillance camera strategy for England and Wales?

(People had a range of choices on the following statements from strongly agree to strongly disagree)

- The national surveillance camera strategy should cover all types of public space surveillance
  - 92.7% agreed
  - 7.3% disagreed
- The national surveillance camera strategy should clearly explain to the public the obligations of those using surveillance cameras
  - 100 % agreed
- The national strategy will help increase compliance with relevant regulations
  - 70.3% agreed
  - 7.5% disagreed
  - 22.2% unsure
- The national surveillance camera strategy provides clear obligations and directions for different users of surveillance cameras that have to show regard to the surveillance camera code of practice and those that choose to voluntary adopt the code.
  - 80% agreed
  - 3.6% disagreed
  - 16.4% unsure
- I support the development of the national surveillance camera strategy
  - 88.7% agreed
  - 9.5 % disagreed
  - 1.9% unsure

9. The draft strategy was generally supported by the respondents with a large percentage agreeing that there is a need for this strategy to inform the public of the obligations of those using surveillance cameras. A number of respondents thought that the strategy should cover all types of public space surveillance cameras regardless of whether the cameras are owned by Government or private operators. This was further supported by the 92.7% of respondents that agreed with the following statement:

‘The national surveillance camera strategy should cover all forms of public space surveillance’.

10. Another recurring topic was the question around enforcement and a number of respondents did not feel that the strategy would be effective without the backing of some form of enforcement powers. Illustrated by the following comments:

‘A strategy which cannot be enforced by the courts, with the threat of imprisonment for those who transgress, is likely to be ignored.....’

‘Not sure if it will increase compliance if it remains voluntary’

### **The Commissioner’s Response**

11. The role of the Surveillance Camera Commissioner is to promote compliance with the surveillance camera code of practice. Over the last three years he has been doing this by raising awareness and encouraging compliance using the tools that he has developed including the self assessment tool. While the role does not come with any enforcement powers, he has successfully encouraged local authorities to complete the self assessment tool in order to show regard to the SC Code and without powers can report that approximately 85% of local authorities across England and Wales have completed the tool. This supports the position that the absence of enforcement powers will not be a hindrance to uplifting compliance.

12. While the suggestion that the strategy should apply to all forms of public space surveillance in spite of the owners is understandable, section 33 of PoFA lists relevant authorities who have to show regard to the SC Code and all others are encouraged to voluntarily adopt the SC Code.

13. The Commissioner raised the issue of widening the list of relevant authorities with Ministers in the 2016 review of the SC Code. Summary of views from this consultation will be shared with Ministers to ensure they are aware. The strategy will provide evidence for effectiveness of pursuing voluntary adoption.

14. The Commissioner has been working with and will continue to work with organisations not included on the list of relevant authorities to encourage compliance. This has already had positive outcomes and a number of organisations such as universities and the retail sector have evidence compliance by completing the self assessment tool and in some cases achieving certification against the SC Code. It is the intention to continue to use the strategy to encourage compliance across all sectors using public space overt surveillance.

### **Question 2: Are the strands listed in the strategy the right ones?**

- 90.91% Yes
- 9.09% No

### **Question 3: Are there any strands missing from the strategy?**

15. In general the respondents agreed that the listed in the strategy are the right ones. They were a few suggestions of other areas that should be covered by the strategy such as cyber security, domestic CCTV, data storage, digitalisation, financial support and the use of audio among others.
16. In addition there were some concerns around how well the strategy will be communicated across all relevant sectors to ensure its effectiveness.

#### **The Commissioner's Response**

17. The Commissioner appreciates the suggestions to include other areas into the strategy and will address concerns around cyber security within the standards and regulatory strand. Some of these are tactical issues which will be addressed within the delivery plans which were not available during consultation. In addition, cyber security has now been included in the standards delivery plan and a guidance document will be developed and published on the Commissioner's website.
18. The use of domestic CCTV is not covered by this strategy as it is not covered by the SC Code– the Information Commissioner oversees use of domestic CCTV. However, there is some guidance on the Surveillance Camera Commissioner's website on best practice as well as lots of information on the Information Commissioner's website. The Commissioner is in discussion with the ICO to ensure there is clarity for the public over where to go for advice on the use of surveillance cameras for domestic purposes.
19. A communication strategy is in development for the strategy to make sure that it is communicated to a large range of stakeholders to encourage take up and how the strategy relates to them.

### **Question 4: To what extent do you agree or disagree that the strategy has clear achievable objectives for each strand?**

- 71.42% agreed
- 8.93% disagreed
- 19.64% unsure

20. While it was generally agreed that the objectives are achievable, there was some concern that the objectives were not specific enough to make them measurable by the public. Furthermore some respondents expressed concern over the lack of detail in the objectives which make it difficult to assess whether any or all of them are achievable.
21. There was also concern around the delivering of these objectives in the mist of austerity and the difficulty of meeting standards and so on during times of financial cuts.

#### **The Commissioner's Response**

22. It is accepted that the objectives are not written as SMART objectives and this has been considered by the Advisory Council. It was agreed that while the objectives do lack details, SMART deliverables which contribute towards achievement of the strategy objectives have been developed. The Commissioner acknowledges that the SMART deliverables were not available during the consultation but will be publishing the delivery plans alongside the finalised strategy document.

23. Furthermore the issue of cost is one that cuts across all sectors and a number of affordable options will be available for users to meet their statutory obligation or chosen obligation to comply with the code such as the self assessment tool. This is a free downloadable tool available on the Commissioner's website.

**Question 5: Are these objectives extensive enough to cover all aspects of public space overt surveillance?**

- 78.57% Yes
- 21.43% No

**Question 6: Are there any other objectives you think should be included in the strategy?**

- 40.74% Yes
- 59.26% No

24. While a large percentage of respondents agreed that the objectives were extensive enough, there were some suggestions of other objectives that should be included in the strategy. A number of the suggestions seem to repeat those listed in question 3 above. In addition to those mentioned above, there were also calls for the need to look at image standards

25. A recurring theme in comments was on the coverage of the SC Code and the need for it to be expanded to include a range of other sectors such as transport, high street stores, taxis, as well any organisation that has surveillance cameras positioned in a way that they cover an area used by the public capturing images of them.

26. There were further suggestions that the strategy should be enforceable.

**The Commissioner's Response**

27. The suggestions have been considered but at this stage as the SC Code only creates a statutory obligation for relevant authorities; we will work with non relevant authorities to encourage compliance. The role of the Commissioner is to encourage compliance to the SC Code including voluntary compliance. Only the Government can consider expansion of the list of relevant authorities and in a review of the SC Code last year, the Commissioner recommended such an expansion. In addition, it is the view of the Government that the incentives and enablers currently in place are sufficient enough to encourage compliance and therefore they are not of a view to give the Commissioner any form of enforcement powers.

28. Image standards will be considered in the development of detailed delivery plans for the standards and certification work strand.

**Question 7: Are the governance arrangements outlined in the strategy clear and easy to understand?**

- 92.86% Yes
- 7.14% No

**Question 8: To what extent do you agree or disagree that the strategy has sufficient governance to ensure it is successfully implemented?**

- 57.14% agree
- 17.85% no

- 25% unsure

29. Respondents generally agreed that the governance arrangements are clear and will ensure it is successfully implemented; however clarification is needed on the composition of the Commissioner's Advisory Council to ensure it is evenly balanced alongside the newly formed Strategy Group. There was also some suggestion that the Strategy Group will need to meet more than the minimum of twice a year to ensure the strategy is effectively delivered.

30. Another issue that reoccurred across response is the concern around penalties and enforcement power which are not provided to the Commissioner for organisations not complying with the SC Code.

### **The Commissioner's Response**

31. The Commissioner takes on board the fact that the Strategy Group may need to meet more than twice a year, which is the minimum, and will build this in to the governance arrangements for the strategy. Both the strategy group and the Advisory Council will meet quarterly and when necessary to ensure smooth delivery of the strategy.

32. As mentioned above, enforcement powers cannot be built in to the strategy as the Commissioner has no powers of enforcement. The Government is not inclined to give the Commissioner enforcement powers at this stage and neither is the Commissioner asking for such powers as the incentives and enablers already used by the Commissioner go a long way to encourage compliance.

### **Question 9: To what extent do you agree that the strategy will help forge effective partnerships?**

- 54.55% agree
- 10.91% disagree
- 34.55% unsure

33. There were mixed views by respondents on whether the strategy will help to forge partnerships.

### **The Commissioner's Response**

34. The strategy is made up of 11 strands which cover a range of sectors in the surveillance camera industry. Leaders from these sectors are working together to develop and implement the strategy therefore the Commissioner and the Strategy Group are confident that the strategy will further build effective partnerships by working together to uplift standards in the industry.

### **Question 10: To what extent do you agree that the strategy will help encourage better regulation of public space surveillance?**

- 64.28% agree
- 19.65% disagree
- 16.07% unsure

35. The Commissioner is encouraged that generally respondents agreed that the strategy will help encourage better regulation of public space surveillance.

36. There were a number of suggestions on how to ensure the strategy encourages better regulation including proper monitoring, more regional involvement in delivery and the need to ensure sustainability within local authorities in the light of austerity.
37. There were also concerns around how effective the strategy will be in the absence of enforcement powers and incentives for those who want to comply.

### **The Commissioner's Response**

38. As mentioned above, while the Commissioner does not have any enforcement powers, over the last three years through a number of incentives and enablers the level of compliance to the SC Code has increased. The absence of enforcement powers is not considered a hindrance to raising standards in the industry.
39. That said the Commissioner will take on board comments around the need for effective monitoring and regional involvement in delivering the strategy and promoting the SC Code. Also while it is accepted that a number of organisations are facing financial challenges, it must be pointed out that it is possible to show regard to the SC Code by completing the self assessment tool which can be downloaded from the Commissioner's website at no cost.

### **Question 11: Please provide any other comments on the strategy**

40. Overall the response to the strategy consultation is positive. One respondent went as far as to say it is 'a thoughtful and well produced document...'
41. In addition to the responses above, we received a number of general comments on the strategy some of which are outlined below.
42. There was concern around capturing sectors that do not have to comply with the SC Code as well as the need to continually police the strategy to ensure it is effectively delivered.
43. Another respondent expressed their concern around the poor quality of CCTV in licensed premises who currently do not have to comply with the code. This ties in with concerns raised around blanket licensing conditions such as those which paragraph 1.14 of the SC Code says "... are likely to give rise to serious concerns about the proportionality of such an approach...."
44. In addition some respondents want to see more control over the access to data captured by surveillance cameras as stated in principle 7 of the SC Code.
45. Another recurring subject is about keeping up with new technology including drones and improvement in camera devices as well as the challenge to achieve common standards across the vast range of manufacturers, designers and installers. In addition there was a further concern around the various forms of connectivity including Wi-Fi, GPS and Bluetooth tracking.
46. Other suggestions include having a single code of practice that picks up all the regulatory requirements for surveillance cameras to reduce the complexity of the industry.

### **The Commissioner's response**

47. The support for the strategy is appreciated and a number of the comments have been taken on board.

The strategy distinguishes between the regulated sector and those that choose to voluntarily adopt the SC Code. There are separate strand leads for these sectors and the document



explains the difference between the two. In the light of improving technology and concern around security, the standards and certification strand now includes deliverables on cyber security.

48. Please see the summary table for more information on what has changed in the strategy.

## WRITTEN RESPONSES

49. In addition to the survey response to the consultation, we also received a number of written responses as listed below.

	<b>Name/Organisation</b>
1	Welsh Government
2	Office of the Surveillance Commissioners
3	British Parking Association
4	Police Action Lawyers Group
5	Information Commissioner's Office
6	Privacy International
7	Big Brother Watch
8	The Home Office DNA Database Ethics Group
9	CCTV User Group
10	Elmbridge Borough Council
11	Salisbury Citywatch Community Interest Company
12	Web Way
13	University of Essex – Law School
14	Kinesense
15	Key Forensic
16	British Transport Police

## A summary of written responses

50. It was suggested that there is a need for strong leadership in order to ensure the strategy reaches its full potential.
51. There was significant support for a single point of contact although it was suggested that it should be made clear that the legal entity still has overall responsibility as the data controller and not the individual acting as the single point of contact.
52. It was suggested that evidence gathering will be vital to support the use of surveillance camera systems. The public should be made aware of such evidence as well as any other information on the cameras such as if they are switched off or faulty – this supports the transparency vision of the strategy.
53. It was pointed out by some respondents that further clarification needs to be provided around information sharing between organisations and sharing information with the public. This is to avoid it being confused with information requested under the Freedom of Information Act 2000 (FOI). It was further mentioned that the document should provide guidance on the sort of information that should be published and how it should be published, not hidden on a website that will be difficult for members of the public to find. One suggestion was to establish an annual publication day, when all organisations publish details about their systems.

54. In response to the issue of ownership and governance it was suggested that as one of the functions of the Surveillance Camera Commissioner is to provide advice to the Secretary of State and others about the SC Code, a strategic framework which enables the Commissioner to secure the information required to do so seems like a legitimate undertaking.
55. There was some confusion around the use of the term 'surveillance by consent' as this could be interpreted in a number of different ways. An alternative term suggested was 'surveillance enjoying public support' which was thought to be less confusing. It was further stated that in the face of the changing surveillance landscape public opinion is unknown and therefore there is a need to be cautious in making assumptions about public support.
56. Another concern was that around the need to distinguish between what data is captured by surveillance cameras and how the data is used once it has been captured. For example, algorithms used to match faces to a database – automatic facial recognition
57. In addition a number of the written responses expressed concern over the absence of reference to a number of other relevant legislations such as the Human Rights Act 1998 (HRA) as well as the Data Protection Act 1998 (DPA) and the Freedom of Information Act (FOI) 2000. On similar lines a number of respondents thought that the strategy focused largely on PoFA and the SC Code without sufficiently balanced with other regulations and codes such as the Information Commissioner's Code – A data protection code of practice for surveillance cameras and personal data.
58. Further comments include concerns over the details of the strategy such as, accountability, measuring improved transparency, as well as the wide range of the sector that the strategy aims to cover. There was some suggestion that it might be best to focus on specific areas which might be more readily achievable.
59. Another respondent raised concerns around the strategy being called a 'national strategy' as the Surveillance Camera Commissioner's remit only covers England and Wales. It was thought that the term national would create confusion. It was further suggested that to make it a national strategy, the document should include other issues around surveillance cameras such as Data Protection and Human Rights laws.
60. This point has been taken on board and the strategy has since been renamed as the national surveillance camera strategy for England and Wales. In addition further reference has now been made to the document to include regulations that impact of surveillance cameras.
61. There was some concern that the strategy did not make a clear distinction between relevant authorities and the voluntary sector (those that chose to adopt the code).
62. The importance of image quality being fit for purpose was mentioned by some respondents as well as the accountability for the images. This relates directly to how the operational requirement document/passport to compliance will be used and who is responsible for the document.
63. Another issue raised was in terms of the language used throughout the document. It was thought that some of the words used are subjective and therefore difficult to measure, such as the phrase 'make them feel safe'. Other terms mentioned include – a clear road map, 'early warning system to horizon scan technological developments, soft levers, greater synergies and a single well publicised digital portal.

64. Another respondent mentioned their concern about how well the public understand what a surveillance camera is and suggests that the document should include an explanation as well as making it clear what overt surveillance camera is. They go further to suggest the document should list what is included in the term 'surveillance camera' with some information on types of devices and technical specifications.
65. One of the recurring comments was the issue of security of the cameras including cyber security and software issues. There was further mention of concerns of security around the combination of image databases and facial recognition technology which could be used to track people's movements.
66. In addition to the response above, we received a number of detail responses on the objectives in the strategy including the number of objectives and the way they have been written. This has been considered and the strategy has been revised accordingly.

### **The Commissioner's response**

67. The above comments have been considered and the strategy has been redrafted to reflect a number of the comments.
68. In order to ensure that the governance is strong, the Strategy Working Group will meet quarterly rather than twice a year. This will increase oversight and enable the Commissioner to update the Advisory Council and the public on the strategy's progress.
69. The support for the single point of contact is appreciated and this is being incorporated into the local authority delivery plan.
70. The language and certain terminology in the strategy have been changed to reflect some of the additional general comments. This includes a change to the vision statement in order to make it more measurable.
71. In addition the suggestion of a national publication day or a national surveillance camera day is being considered under the civil engagement strand in order to create awareness among members of the public.
72. Please see the summary table (annex A) for more information on what has changed in the strategy.

### **Responses from events**

73. The commissioner spoke at a number of events during the consultation period. These were the Independent Parking Community (IPC) conference, The Global MSC conference and the National Association of Healthcare Security Officers (NAHS) conference.
74. At each of these events the Commissioner spoke about the strategy and received considerable support.
75. In addition to these speaking events, there were two consultation events where specific feedback was sought:
- An event jointly organised with the Welsh Government for relevant authorities (local authorities and police forces)
  - A private roundtable event organised with the Centre for Research into Information, Surveillance and Privacy

76. Below is a brief overview of feedback gathered at these events

- The strategy is an enabler that will raise awareness of the SC Code and help organisations to comply with relevant legislation, codes of practice and guidance.
- How aware are the public about post surveillance events – what happens to the data?
- Emphasis has to be given to encouraging organisations informing the public why cameras are being installed and what the information is used for – increased transparency.
- Support for closer working between the police and local authorities as reflected in objectives 4 and 5.
- It was noted that the strategy should have Government backing
- The strategy will help to provide clarity to a changing surveillance landscape.
- There was a reiteration of the concern around the public's understanding on what surveillance cameras can do. It was suggested that the strategy could help raise public awareness.
- The strategy needs to ensure that the 12 guiding principles are applied to the whole surveillance system and not just the cameras.
- The strategy should make clear the distinction between relevant authorities who have to comply and the voluntary that can choose to comply.
- The language of the strategy document needs to be such that the public understand and avoid the use of terminology that can easily be misinterpreted such as 'soft levers' and 'surveillance by consent'.

### **The Commissioner's response**

77. The Commissioner appreciates the support he received from the events. The feedback from the events indicates support for the strategy and he has taken on board the comments around closer working between the police and local authorities. The strand leads for these two areas are working together to develop a workable plan to reflect this, such as improving feedback on how surveillance has helped in cases and information sharing.

78. The strategy has been redrafted to make it easier for the public to understand what surveillance cameras are as well as the potential capabilities in the light of improving technology.

79. Please see the summary table (annex A) for more information on what has changed in the strategy.

### **Responses outside the scope of this strategy**

80. In addition to the response above, we received a number of responses that are currently beyond the scope of this strategy, the Commissioner's remit and the SC Code but will be referred to the Home Office for consideration.

81. Below is a list of these issues

- The use of the term 'surveillance by consent' as mentioned in the SC Code
- For the strategy to be effective the Commissioner needs to have enforcement powers
- There was an echoing call in the responses for more organisations to be included in the list of relevant authorities in order to make the strategy more effective.
- It was recommended that all system operators who record data of members of the public in public spaces should be placed under the statutory duty to comply with the SC Code

- Specific mention was made on the importance of including the transport sector (national rail and other transport networks) in the list of relevant authorities.

## Summary of changes to the national surveillance camera strategy for England and Wales in response to the consultation

	Strategy document paragraph reference	Consultation response	Commissioner's response
1	Legislation and regulations	<p>The strategy is too PoFA focused</p> <p>Not enough mention of HRA and individuals rights to privacy</p> <p>Need to include links to other regulations and codes</p>	<p>Amended to make explicit the intention to promote awareness of and compliance with the DPA, HRA and all relevant regulations and legislation</p> <p>Added an annex (annex B) to cover history of surveillance cameras including relevant legislation and developments to make it less PoFA focused.</p>
2	The vision	The term 'feel safe' in the vision is too subjective and therefore unmeasurable	Removed the term 'feel safe' to enable a more objective measure
3	Definitions	A better explanation on what we mean by surveillance cameras	<p>Moved the reference to the definition of surveillance cameras to the body of the document rather than the footnotes.</p> <p>Listed most common types of surveillance such as Body Worn Video (BWV), Automatic Number Plate Recognition (ANPR) and Unmanned Aerial Vehicles (UAV) - Drones</p> <p>Also have referred to how data can or could be manipulated one captured such as via automatic facial recognition technology.</p>
4	Background	A number of written responses expressed concern over the absence of a mention of other regulations such as the HRA and the DPA. It was suggested that to balance the strategy out from being a PoFA focus, the progress to date section should include reference to other regulations and codes.	<p>This section has been re written and forms a background/history of surveillance and the relevant legislations.</p> <p>Due to the level of detail and length of this section it is now an annex to the document</p>

<b>5</b>	Terminologies	A few concerns around the term 'surveillance by consent' with a suggestion to use a different term such as—'surveillance that enjoys public support'	This term is one used by Government in the SC Code.  We have attempted to explain what surveillance by consent means and referred back to what it says in the SC Code.
<b>6</b>	Terminologies	Concern around some of the language e.g. 'soft levers'	Removed the term 'soft levers' and replaced with incentives and enablers
<b>7</b>	Objectives	Some concern around the number of objectives – are they too many?	While the number of the objectives remain the same they have been rewritten to make them easier to understand what will be delivered.
<b>8</b>	Objectives	Not SMART	While it is accepted that the objectives are not SMART, the details, measures and milestones have been written into the delivery plans.
<b>9</b>	Objectives	It was suggested that we have to include cyber security as this is a real concern going forward with advanced technology.	Cyber security has now been included in the standards strand
<b>10</b>	Governance	Concern around the frequency of meetings of the Strategy Working Group?	This has changed to quarterly meetings and as of when required.

