



Home Office

# **CONSULTATION ON A CODE OF PRACTICE RELATING TO SURVEILLANCE CAMERAS**

## **SUMMARY OF CONSULTATION RESPONSES AND GOVERNMENT RESPONSE**



## OVERVIEW OF CONSULTATION PROCESS

This consultation document was published on 1 March 2011. It was concerned with the overt use of systems such as CCTV and ANPR in public or semi-public places where people can generally either see a camera, or are informed about its presence. It did not cover covert surveillance techniques, which are legislated for through the Regulation of Investigatory Powers Act (RIPA) 2000.

## METHOD FOR THE CONSULTATION

The consultation was made available on the Home Office website as a PDF document. Large print and audio and Braille were also made available. Responses to the consultation could be submitted via email.

A total of 107 responses to the consultation were received, including 16 from members of the public, 21 from the local authority community and 12 from the police community. A list of those respondents is set out at the end of this document, although the names of individual members of the public have not been included. A summary of substantive points made by respondents is set out below together with the Government's response.

The Government would like to thank all those who gave their time to respond and contribute to this consultation process.

## CODE OF PRACTICE

The Protection of Freedoms Bill contains an initial, but not prescriptive or exhaustive, list of the types of issues the Code may seek to address. The consultation document provided further detail on some of the matters that the Code might include. It was structured around six key considerations. These were associated with the scope and content of the proposed Code of Practice, its implementation and future developments. Questions were asked under each heading and the response are summarised in this document.

## GENERAL

- Not all respondents recognised the references to concern over the invasion of personal privacy and state intrusion into people's lawful business. There was reference to a general climate of overwhelming support for CCTV, and for ANPR use by the police. Some respondents expressed concern that an unintended consequence of the proposed Code will be to hamper the ability of law enforcement agencies or others to prevent or detect crime.
- The number of serious documented cases of misuse or ill considered deployment was regarded by some as having been miniscule in relation to the vast overall volume of CCTV data that has been captured, with the suggestion that there may be more complaints about the failure of CCTV to provide much needed evidence to bring crimes to justice or indeed to prove innocence. Others considered the suggestion that civil liberties have been eroded as a result of increased numbers of CCTV cameras is a result of grossly exaggerated media reports.
- There were, however, strong views expressed in support of powers to uphold civil liberties. Some questioned whether the clauses in the Bill will deliver stringent enough regulation of CCTV to contain the growth of public surveillance. They urged that sufficient weight must be given to compliance with Article 8 at the preplanning stage, allowing for the fact that whilst the Data Protection Act is applicable to all, the Human Rights Act is applicable only to public bodies.
- There was a call for greater clarity about the purpose of the Code and the balance to be struck between rolling back the surveillance state to uphold privacy and driving the effectiveness of systems to maintain and improve public protection. One respondent questioned why there will there be a statutory requirement to consult the police over the content of the Code but not any civil

liberties group. Another suggested that as part of reducing the surveillance state there might be an annual licensing with charges set at a level to reduce the number of cameras in operation.

- Respondents also expressed the importance of achieving absolute clarity within the Code in defining the scope and purposes of surveillance camera systems to which it will apply. For example, there were arguments for the inclusion of traffic management and enforcement cameras and parking enforcement, requests for clarity over the position of CCTV on transport systems, and concerns that the Code should not extend to the monitoring of factory process and hazard management. Furthermore, a definition of public and semi-public space was sought.
- Clear advice was sought on when surveillance becomes directed and covert requiring a RIPA authorisation, particularly for ANPR, and how public order evidence gathering should be treated.
- There were concerns expressed that the Code might unintentionally place significant bureaucracy on the police service and local authorities in having to document actions and decisions in order to demonstrate due regard to it. Some respondents indicated that, in line with the key Government aim of reducing burdens of bureaucracy, any new data collection burdens must be avoided. Others suggested that statistical collections by local authorities should be captured in legislation and reported in Local Authority audits and reported centrally to allow for external analysis and measurement of performance.
- A number of respondents recognised an opportunity to address the apparent anomaly between the requirement for CCTV operators employed by contractors to be licensed by the Security Industry Authority and the absence of any similar requirement for in-house CCTV operators. One suggestion was that licensing, to ensure operators are ‘fit and proper’ persons who are properly trained and qualified to do their job, should be done by local authorities.
- A number of respondents wanted some explanation of how the Code of Practice would build on the National CCTV Strategy and how the 44 recommendations are being taken forward, including the Strategy Sub-Groups previously created under the NPIA.
- The inclusion of ANPR in the Bill was welcomed, yet with some caution over how the effective regulation of both CCTV and ANPR through a single Code of Practice, could be designed. The test was seen as whether the Code can adequately reflect the fundamental differences between the collection, retention and use of CCTV and ANPR data.
- The proposed incremental approach to implementation was seen by some as a lost opportunity, with an expectation that the Code should be broad and comprehensive in scope from the outset. Otherwise the desired regulatory effects could be five to seven years away.
- There were views both for and against the creation of a new commissioner to oversee the Code of Practice, with some suggesting that this could be incorporated into the Information Commissioner’s remit with appropriate resources made available. There was, however, a clear consensus over the importance of clarifying the role of the new Commissioner in relation to the Information Commissioner and the Surveillance Commissioners, to ensure their roles were complementary roles and to manage the risk of different interpretations of the law being promulgated.

## GOVERNMENT RESPONSE

The responses to consultation illuminate the complexities of the existing landscape of surveillance camera use. The Government’s ambition is to build on the existing relevant regulation and guidance, including the Data Protection Act 1998, to develop a coherent and effective light touch regulatory framework which would be applicable to all system operators and bring greater consistency and rigour to the use of such technology. The purpose of the

Code will be to ensure that communities have confidence that surveillance cameras are deployed to support them, rather than spy on them. The Government accepts that there will be a challenging task to take account of the different purposes to which surveillance can be deployed, and the range of organisations engaged in their operation. We are also committed to minimising any new bureaucracy or burdens being created in association with this regulatory framework. That is why we intend to continue a dialogue of consultation in the development of the Code, and maintain that an incremental approach is most appropriate. In this way, the basic principles can be established and its operation kept under review.

The calls for absolute clarity over scope and definitions are entirely appropriate, and we want to work with all interested parties to deliver a consensus over the detail of the Code.

Consultation responses challenged the creation of a new commissioner post. In many ways, these challenges reflected the recommendation to consider a single privacy commissioner made by the Home Affairs Select Committee following its enquiry into phone hacking. The Government's view is that the range of statutory functions carried out by each Commissioner with regard to surveillance and privacy varies significantly. Each Commissioner and his staff will work in specialist, technical areas that require extensive knowledge of relevant legislation, equipment and procedures.

Successful regulation is dependent upon co-ordination between commissioners to ensure the right expertise is utilised in the right context, and that wherever possible there is consistency between them. We shall take note of the concern expressed by respondents in the way we develop the role of the Surveillance Camera Commissioner and how this interacts with that of the Information Commissioner and the Surveillance Commissioners.

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### I. PRE-PLANNING

#### Q. WHAT OTHER PREPARATORY CHECKS OR BALANCES SHOULD BE INCLUDED?

- Respondents considered that the consultation document provided a sound foundation to develop a framework within which pre-planning, and regular review of whether a system is meeting its purpose, would be of value to system operators. Particularly for small businesses who may not have the expertise readily available to them.
- The lessons to be learnt from Project Champion and the need for adequate consultation between all interest parties and particularly with the community were highlighted. Some respondents requested a model public consultation process which is not over-burdensome and could apply equally to all operators. The inclusion of an Equalities Impact Assessment was encouraged. There were, however, some reservations that public consultation over the placement of specific cameras could see vociferous minority views influence decisions beyond the reality of the situation. There was also the suggestion that the installation of public CCTV should be approved by the local CDRP and presented to local ward areas for approval, with any private sector deployment being risk based.
- There were requests that the Code provide a model for establishing a cost benefit analysis 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). Furthermore, the Code should emphasise the importance of considering affordability, value for money, and the sustainability of funding for running costs, including staffing, maintenance and repair. Linked to any cost benefit models, was the suggestion that inclusion of meaningful Key Performance Indicators would support the assessment of whether intended benefits were being achieved.

- Some respondents saw it as vital to consider that the pre-planning of a surveillance system should take account of the requirements of all stakeholders, including the police and the courts (who were regarded as the effective end-users of a system). This could be achieved through engagement with local community safety partnership or a crime prevention officer. Others encouraged the shared development and operation of systems between organisations, with economies of scale and ease for sharing data. There was also a suggestion that local authorities be required to develop a properly considered integrated CCTV strategy.
- Pre-planning checks might also include signposting to competency standards for installers to which those planning to set up and/or enhance systems can refer in specifying requirements. This suggestion came with a caveat that realisation of some advanced technological functionality marketed by suppliers can be difficult to realise in a real world environment.
- In pre-planning any ANPR system, it was suggested that the Code needs to recognise there is a balance struck between pre-planning for the temporary and permanent deployment of a camera at a specific site. A temporary deployment of a camera might be treated as an operational decision rather than a matter for consultation. The quality assurance of ANPR hotlists should also be included.
- Governance arrangements should be considered, and a clear audit trail of checks before installation established to support accountability and transparency and to monitor ongoing appropriateness of the technology. These should consider the frequency and depth of reviewing effectiveness of system in meeting its objective.

**Q. DO YOU HAVE ANY EXAMPLES OF EXISTING GUIDANCE OR GOOD PRACTICE IN THIS AREA THAT COULD BE DRAWN ON IN DEVELOPING THE CODE?**

- Respondents made reference to a range of existing guidance and standards which would be relevant.

**THE GOVERNMENT'S RESPONSE**

It is in nobody's interests to see the deployment of a surveillance camera system without a clearly specified objective, or objectives. The suggestions made through consultation have enriched our understanding of the kind of issues that guidance on the development and use of systems could usefully include. The critical elements are most likely to be establishing whether surveillance cameras are the most appropriate means of achieving the desired objectives, consultation with all relevant parties and arrangements for the effective and transparent management and review of operations with sustainable resourcing. We will continue to engage with interested parties in the development of the Code.

**STANDARDS**

**Q. DO YOU THINK IT WOULD BE BENEFICIAL TO ESTABLISH A COMMON TECHNICAL STANDARDS BASELINE FOR THE SURVEILLANCE CAMERA INDUSTRY?**

- The experience of some respondents was that the absence of common technical standards has sometimes led to installation of systems which are not fit for purpose with adverse impact on benefits. As a result, the introduction of standards was seen as beneficial for industry in driving quality standards, allowing operators who may not have in house expertise to assess the marketplace, and benefit the public who could expect to see increased quality of evidence presented in court with increased likelihood of justice being delivered.
- There were, however, some concerns expressed over the application of standards for system components. These concerns arose from the need to take account of international standards and product development, and the risk that the UK CCTV industry could be disadvantaged in a global marketplace.

- There was support for standards that concentrate on operational output standards and functional deliverables rather than standards for the technology itself, with the suggestion that these could be of real value in overcoming the challenges of inter-operability between digital systems. Suggestions for output standards included: a baseline for recording quality/image resolution; numbers of frames per second; meta data describing the time, data and location; data compression; image format and data exchange formats/ease of download and requirements.
- Given the rapid pace of technological development, it was suggested that standards should be set and continually reviewed by a technical panel with membership representing the industry and operators such as the police, local authorities and the private sector. Doing so might address some of the concerns over a loss of momentum in meeting recommendations from the National CCTV Strategy 2007.
- Common technical standards for ANPR operation were seen as essential.
- There were, however, concerns expressed over how compliance with any standards might be achieved, along with suggestions for an accreditation body to confirm products meet output standards and thus allow for both supplier innovation and customer choice.

#### Q. ARE THERE ANY PARTICULAR TECHNICAL ISSUES ON WHICH THE DEVELOPMENT OF A STANDARD WOULD BE ESPECIALLY VALUABLE?

- Video analytics (ie the automatic detection and tracking of specific behaviours) and automated facial recognition technologies were reported as seeing significant investment by industry, with a gap between the expectations of the public and the potential users and the reality of real world performance. Standards in this area could be of real benefit to system operators and provide reassurance to the public about the reality of what these systems can and cannot do.
- Other suggestions included: encouraging the use of fault reporting methods to alert operators when elements of systems fail and thus minimising the risk of lost images; compliance testing for ANPR; the incorporation of privacy by design features to facilitate easier subject access, in association with privacy friendly solutions such as software to blur images of third parties; standards for police recording of habitual dress and the use of such database information in custody suites to identify repeat offenders.

#### Q. IF COMMON TECHNICAL STANDARDS WERE NOT DEVELOPED, HOW COULD CONSISTENCY AND PERFORMANCE BE IMPROVED IN OTHER WAYS?

- There was no common view that emerged from the responses, with comments suggesting: competition between suppliers may drive improvements; that regulation of suppliers and installers would be most effective; that consideration be given to camera certification; and others urging better promotion and use of existing guidance and standards. Another alternative suggested was the development of a Publicly Available Specification to address inconsistencies in the performance of CCTV infrastructure.

#### Q. WHAT DRAWBACKS ARE THERE TO HAVING COMMON TECHNICAL STANDARDS?

- Technical standards were seen by some as likely to limit the rate of innovative development being adopted by system operators and the exploitation of new developments.
- Common technical standards may push up costs, exclude some businesses from the sector, or require new investment to upgrade existing assets to meet them. Some systems may be removed as a result.
- There could also be costs associated with compliance testing.
- Risk of cracked cases in court due to exclusion of evidence secured from a camera system which is not fully compliant but which could still be valuable in the delivery of justice.

- Implementation and compliance could take a long time, unless the Government funds it.
- Divergent pricing as a result of some companies working to meet the standards whilst others seek to undercut the market with a cheaper alternative.
- Costs of meeting standards could inhibit further development of CCTV.
- The standard may not evolve as quickly as technology.
- Common standards need to differentiate between the needs of a variety of industries, how they operate and how they are funded.
- Difficulty in monitoring conformance and enforcing technical standards.

**Q. WHAT OTHER (NON-TECHNICAL) ISSUES MIGHT BENEFIT FROM THE ADOPTION OR DEVELOPMENT OF KEY STANDARDS?**

- There was a strong response seeking minimum training requirements with qualifications and accreditation at all stages of a system. From requests for inclusion of an accreditation scheme for installers and consultants in which there is a means of assessing both competence and integrity. To suggestions of a framework of professional competence for surveillance camera operators and managers with a vision of career pathways supported by professional qualifications. Accreditation of system inspectors engaged in compliance work was also advocated. There were calls for training standards to be developed for the police and police staff involved in the forensic retrieval and processing of evidence from camera systems, with a long term vision of establishing CCTV as a forensic discipline. The further professionalisation of the workforce was seen as an opportunity to increase public confidence that surveillance was being deployed appropriately.
- Respondents also suggested the introduction of clear national standards for evidential requirements in court hearings.

**THE GOVERNMENT'S RESPONSE**

The Government appreciates the potential cost and burdens associated with upgrading existing systems, and it has no intention of placing a requirement upon system operators to upgrade their existing systems to meet mandatory standards. The drivers for compliance with standards should come through the benefits of operating transparent and effective systems that meet their stated objectives and have the confidence of the public. In developing the Code, we will concentrate on getting the basics right to ensure that guidance is available to ensure CCTV systems are fit for purpose. We will work closely with interested parties to develop and promulgate standards that make it easier for system operators to specify their requirements, and for suppliers and installers to demonstrate that their technical solutions will meet those requirements. We are also keen to explore training standards to achieve greater professionalism across the board and increase public confidence.

Where appropriate, we will look to differentiate standards to reflect the requirements of different sectors and operators.

Demonstrating compliance with any standards will be essential if they are to have any real benefit. We therefore intend to work closely with interested parties to explore how self-regulation can best be achieved through accredited schemes.

**II. DATA PROTECTION**

**Q. WOULD IT BE HELPFUL TO COMBINE THE EXISTING INFORMATION COMMISSIONER'S CCTV CODE INTO A NEW SINGLE CCTV CODE, OR MAINTAIN A DISTINCTION BETWEEN DATA PROTECTION ISSUES AND OTHER TECHNICAL CCTV OPERATIONAL ISSUES THROUGH SEPARATE CODES?**

- Respondents sought arrangements which would minimise bureaucracy and confusion, without diluting any requirements or



expectations of compliance with the Data Protection Act. Some requested a clear separation of Codes with complementary content and clear cross references and signposting between them. Others urged the production of a Single Code Incorporating data protection requirements and the effectiveness of CCTV and ANPR that could not be confused with other Codes required from other legislation. One key benefit which was seen in the development of a single Code was that it would necessitate those who produce the regulatory framework to think through the relationships between consideration of privacy and effectiveness, rather than leaving it to practitioners to interpret how two fit together.

- Respondents observed that the ICO's Code has a different geographic and sectorial coverage to the proposed statutory Code and this might lead to difficulty in combining them.
- Furthermore, there were concerns that the development of a single Code with two Commissioners overseeing different elements of it could prove too complex, and cause confusion over where the public should turn to exercise their rights. Some respondents suggested extension of the Information Commissioner's remit to include effectiveness of surveillance systems, with a small technical unit subject to provision of additional resources.
- Clarity over complaints procedures to minimise risk of vexatious complaints becoming a disproportionate burden on the operator.

#### Q. ARE THERE ANY OTHER ISSUES RELATING TO THE COLLECTION, STORAGE AND SUBSEQUENT USE OF DATA WHICH SHOULD BE INCLUDED IN THE CODE?

- Respondents acknowledged the existing work of the Information Commissioner in providing guidance on DPA compliance. In line with the ICO guidance, they regarded it as vital that system operators define clearly the purpose of data collection and that retention policy is proportionate to that purpose, and

addresses the end to end process from data capture to data deletion.

- There were suggestions that an industry-wide image retention period be introduced, (with both minimum and maximum periods) to take account of all relevant data protection legislation and also satisfy needs of enforcement agencies to investigate incidents and allegations without risk of images being lost through deletion. Such retention periods might be tailored to the requirements of different operators, for example licensed premises were cited by respondents. Some respondents argued for the benefit of retaining data for three years to reflect the limitation period for personal injury claims, and potentially for six years to inform non-personal injury claims.
- Discussions between ICO and the police over ANPR data retention periods were reported, with encouraging signs that progress is being achieved. Some respondents objected to the collection of ANPR data by private companies for income generation, and this should be seen alongside both the parking industry and local authorities seeking refined guidance on recommended retention periods for data, especially ANPR. Absence of overarching regulation of ANPR makes it difficult for law enforcement agencies to use data captured by private organisations in investigations and prosecutions. It was seen by some as essential for the police to have the ability to act on ANPR evidence from the private sector even if a system is not compliant. Private ANPR operators should be required to display clear signage stating that data may be shared with enforcement agencies for crime prevention and investigation.
- Guidance on data storage and sharing was also seen as important for some respondents, with strong support for appropriate training for system operators, and requirements for security and encryption, and for who can access and review the data. There were also calls for clarity over how best to preserve the forensic integrity of data.

## THE GOVERNMENT'S RESPONSE

The Information Commissioner has a range of tools to enforce the Data Protection Act 1998 (DPA) In implementing the surveillance camera provisions of the Protection of Freedoms Bill, the Government does not intend to alter or dilute the statutory role of the Information Commissioner in promoting compliance with, and enforcement of, the DPA. We recognise that there have been a variety of views expressed on how best to proceed in designing new regulation to complement the existing provisions of the DPA and the ICO's CCTV Code of Practice. There is, however, consensus in the call that both bureaucracy and any potential for confusion are kept to a minimum. We are, therefore, proceeding through close discussion with the ICO and the Interim CCTV Regulator to explore in depth the options to deliver coherent and effective regulation that can be understood easily both by those to whom the Code will be applicable and by the public.

The ICO will also be a key partner in wider discussions about data retention and sharing issues with the aim of providing greater transparency for the public over the processing of personal data on surveillance camera systems, including ANPR.

### III. PROVISION OF INFORMATION

#### Q. WHAT INFORMATION DO YOU WANT TO BE ABLE TO OBTAIN IN RELATION TO SURVEILLANCE CAMERA SYSTEMS?

- Respondents reflected DPA requirements in stating that the public should be able to expect a clear Data Protection statement of purpose for surveillance/data collection along with the name of the organisation, with stringent enforcement. Some went further and considered that there ought be public access to a full list of camera locations and data retention periods. Others, however, suggested it would not be appropriate to have an indiscriminate requirement to publicise all camera locations, as this could be used by those of criminal intent to avoid

detection or by the nefarious to attack cameras. There was a suggestion that the details of all systems should be available to police and local authorities, but not to the public, thus creating a national searchable database of camera locations that might be used to investigate crime.

- Others noted the importance of each organisation operating CCTV documenting its processes and making them available online. From the perspective of public assurance that a system remained fit for purpose, it was suggested that a template audit should be completed and published at a regular interval.
- The Code of Practice was seen by some as an opportunity for system operators to access information which would assist in the more effective management of their assets so that objectives could be achieved more efficiently.
- There were calls for more information to raise awareness of ANPR and the purposes to which it can be deployed. These were made alongside the observation that ANPR use to prevent and detect crime has the support of the public, whereas there are concerns that in some cases it is deployed purely for income generation purposes.

#### Q. WHAT METHODS ARE MOST EFFECTIVE FOR PROVIDING INFORMATION? DO YOU HAVE ANY EXAMPLES OF GOOD PRACTICE IN THIS AREA?

- Most respondents who commented wanted to see a web-based source of information about the Code of Practice and the work of the Surveillance Camera Commissioner. There was also strong support for the existing requirements of the DPA for local signage associated with any public space surveillance system as part of ensuring transparency over the data controller, and the purpose or purposes for which cameras are deployed.

#### Q. ARE THERE ANY OTHER ISSUES YOU THINK SHOULD BE INCLUDED IN A CODE OF PRACTICE?

- Respondents mentioned both requirements for planning permission and to consult publicly over the location of cameras, and the use of surveillance camera for income generation purposes such as car parking and gathering information for marketing and promotion of goods and services.

## THE GOVERNMENT'S RESPONSE

The Government intends that the Code of Practice will increase transparency over the operation of surveillance cameras, and build on the good practice already described in the Information Commissioner's Code for CCTV. Respondents rightly recognised the Code as a source of information for both the public and a range of system operators, with each audience having different needs. In developing the Code we will consult further, and take careful account of the views expressed thus far, in order that there is readily available and relevant information and that the role of the Surveillance Camera Commissioner in encouraging compliance and providing advice is clearly understood by all.

## IMPLEMENTATION

### Q. HOW BEST CAN ORGANISATIONS BE PERSUADED TO ADOPT THE PRINCIPLES OF A NEW CODE ON A VOLUNTARY BASIS?

- Respondents suggested a variety of methods to encourage voluntary adoption of a new Code. These included: allowing only evidence from a compliant system as admissible in court proceedings; working with the insurance industry to explore incentives such as reduced insurance premiums for compliant operators, or in one suggestion insurance becoming null and void if an annual certificate of inspected compliance is not available; the development of 'kitemarks' to indicate compliance was also suggested, with the proviso that without accredited inspection this would be of little real benefit to the public; public sector procurement and funding requirements specifying compliance as an pre-condition of eligibility; provision of funding to encourage system upgrades.
- Others saw the need for licensing of all system operators, of those engaged in installation and maintenance, and of all individual operators whether employed by contractor or not to provide transparent assurance of operating and training standards and security screening. There were varying views on whether this should be subject to audit or accreditation to assure compliance with standards, and a recognition that there would be likely to be resource implications associated with any licensing or accreditation scheme.

### Q. ARE THERE SPECIFIC ASPECTS OF THE PROPOSED CODE THAT SHOULD BE MADE MANDATORY FOR ALL ORGANISATIONS?

- Some respondents were concerned that a Code with an unenforceable nature, with no firm prescription in the Bill as to the content of a non-binding Code, would have little effect in delivering its objectives and be a missed opportunity to safeguard the public. They wanted to see it made mandatory for all operators, with a "carrot and a stick" approach involving the establishment of a national inspection function to ensure compliance and with additional resources identified to enable its operation, or alternatively funded through a levy on CCTV operators (although such a levy could lead to some systems closing down for purely financial reasons).
- Others observed that the public do not fully appreciate the differences between private, public and police systems, and argued that the effect of the Code should be universal and applied equally to all system operators, otherwise a significant number of system operators will ignore it, and this could be a missed opportunity to raise standards across the whole CCTV community. There were varying views over whether such equal application of the Code should also be with mandatory effect
- An incremental approach to implementation was seen by some as too cautious, and there were suggestion that the duty to have regard to the Code should be extended to central Government departments and

agencies. Other respondents observed that surveillance camera systems are operated in an extremely complex picture of purpose and operators, and some of the complexities in regulation could be understood and developed more effectively through the adoption of a staged approach.

- There was a request for clarification of what having regard for the Code means in practice, and also whether any duty to have regard imposed on local authorities would extend to any private contractors to whom they outsource day to day management of their systems.

### THE GOVERNMENT'S RESPONSE

We welcome the range of views, and see them as supportive of a code that under the Protection of Freedoms Bill would be applicable to all system operators. Our incremental approach to implementation will allow for the development of mechanisms to support voluntary compliance by those system operators who are not required in legislation to have regard for the Code from its outset. Whilst we accept that the public may see little difference between public and privately operated surveillance systems, and that the vast majority of systems are privately operated, our starting point must be surveillance conducted by the state. This is not to imply that there is any greater need for progress to be made by local authorities and the police. It is to recognise that their behaviour can be a powerful driver of public confidence and of standards in other sectors.

The requirement to have regard to the Code means that relevant authorities must have regard to it when exercising any functions to which the Code relates, and that any failure to do so can be tested in judicial proceedings. The duty to have regard would not extend to any contractors working on behalf of a relevant authority (unless they themselves are a relevant authority), although it would apply to any decisions made by the relevant authority in defining its

contractual requirements.

In looking beyond the publicly-operated systems where relevant authorities that must have regard to the Code are specified in the Bill, we will explore the opportunities to find synergies with regulation of the private security industry, where minimum licensing requirements are currently under review. Whilst we have no plans at present to extend operative licensing beyond the private contracted sector, we will explore how best to promote the required standards of integrity and competence across all surveillance camera operators. We will also explore with the Interim CCTV Regulator the opportunities to facilitate a self-regulatory scheme extending from the installation of surveillance camera systems to their operation.

Our aim is to encourage compliance without imposing new burdens on either the public or private sector operator. The Protection of Freedoms Bill provides for statutory consultation over the preparation of the Code, and this will enable concerns over its impact and any new burdens to be considered once the detail of its content and operation has been developed. The Bill also provides for a Surveillance Camera Commissioner to encourage compliance with the Code, and for the operation of the Code to be kept under review and subject to alteration or replacement. This is entirely consistent with the incremental development of light touch regulation which does not impose disproportionate bureaucracy and burdens.

### FUTURE DEVELOPMENTS

#### Q. IS THERE A NEED TO REGULATE THE USE OF CCTV AND SIMILAR SYSTEMS BY PRIVATE INDIVIDUALS? WHAT ISSUES SHOULD BE COVERED?

- Some respondents found it hard to see any case for addressing private use of surveillance systems through legislation which is intended to limit state intrusion into

the lives of individuals. That said, there were a range of suggestions about how to minimise the risk of private systems invading the privacy of others. These included: provision of clearer guidance on use of CCTV covering the appropriate location of cameras and advice on data storage and retention; private installations being controlled under planning regulations; a requirement for all new private systems to incorporate 'privacy screens' to blank out images beyond their own property, and for all existing users to upgrade to this standard within a reasonable timescale if requested by a neighbour, and; the creation of a new criminal offence of misusing CCTV.

- Respondents also referred to a need for guidance on the potential integration of private individuals' systems into extended forms of neighbourhood watch, on the use of vehicle-mounted CCTV, and assurance monitoring for babysitters and elderly relatives.

#### Q. ARE THERE OTHER SURVEILLANCE CAMERA TECHNOLOGIES IN OPERATION OR DEVELOPMENT FOR WHICH GUIDANCE OR LEGISLATION MAY BE REQUIRED?

- Respondents suggested that viewing of a live stream of public space CCTV should be subject to legislation which defines what can and cannot be shown, there was also a concern the increasing numbers of hand-held recording devices, and the use of live-cams, internet and social networks suggests that standards should be drafted for these technologies.

#### Q. ARE THERE ANY OTHER MATTERS ON WHICH NEW OR FURTHER REGULATION MAY BE REQUIRED?

- The acceptability to the public of any future deployment of video analytics and facial recognition systems was reported as being dependent upon the development of standards for the reference databases against which CCTV images can be compared and for a level of reliability when

they are used in public space surveillance. The development and maintenance of such databases was considered to have serious implications for civil liberties. There was a call that the development of standards for video analytics software should be funded by the Home Office.

- There were also calls for clarification over the status of speech recording through overt public space surveillance systems, and concerns over the availability of guidance on security of digital data which is stored remotely.

### THE GOVERNMENT'S RESPONSE

The Government is in the first instance keen to address concerns about state intrusion into private lives. It acknowledges that there are some very real concerns about the behaviour of some private individuals in using surveillance cameras, yet does not intend to take steps at this time to regulate them beyond existing statutes. We do, however, recognise the potential intrusion into the privacy of others, especially where images might be shared through the internet, and will keep the situation under review.

The Government will consider further the need to include specific technologies used for surveillance purposes in the development of the Code of Practice, especially where standards would be appropriate in safeguarding privacy. The incremental nature of the Code of Practice will allow for regulation to be amended to reflect technological advances and the availability of new systems.

## LIST OF RESPONDENTS

### POLICE BODIES

- ACPO ANPR
- ACPO CCTV
- Derbyshire Constabulary
- Greater Manchester Police
- Humberside Police
- Metropolitan Police Service
- National Police Improvement Agency
- South Yorkshire Police
- Suffolk Constabulary
- Surrey Police
- Sussex Police Authority
- West Midlands Police Authority

(12)

### LOCAL AUTHORITIES

- Bassetlaw District Council
- Bodmin Town Council
- Calne Town Council
- Daventry District Council
- Harrogate Borough Council
- Kingsbridge Town Council
- London Borough of Camden
- London Borough of Enfield
- London Councils
- Local Government Group
- Local Government Regulation
- Markyate Parish Council
- Reigate & Banstead Borough Council
- Royal Borough of Windsor & Maidenhead
- Salford City Council
- Slough Borough Council
- South Hams District Council
- St Edmundsbury Borough Council
- Stockton on Tees Borough Council
- Wheathampstead Parish Council

- Wycombe District Council

(21)

### OTHERS

- Association of Convenience Stores
- Association of Train Operating Companies
- Berrymans Lace Mawer
- Brewin Dolphin Ltd
- British Council of Shopping Centres
- British Oil Security Syndicate Ltd
- British Parking Association
- British Security Industry
- British Standards Institute
- Camerawatch
- CCTV Crew
- CCTV In Focus
- CCTV Inspectorate
- CCTV User Group
- Christison Particle Technologies Ltd
- Cisco
- Confederation of Passenger Transport UK
- Department for Transport
- Eclipse Research
- European Secure Vehicle Alliance
- Facewatch
- Forum of Insurance Lawyers
- Hampshire Fire Service
- Home Office - Centre for Applied Science & Technology
- Identity Trust
- Information Commissioner's Office
- Interim CCTV Regulator
- Justice
- Liberty
- London CCTV Managers Group
- London Motorists Action Group
- MacLennan Imaging Ltd

- Market Research Society
- Mouchel
- National Exhibition Centre
- National Security Inspectorate
- Newspaper Society
- NHS Protect
- No CCTV
- Nottingham Tram Consortium
- NSG Security Consultants
- Omnipercption Limited
- Philip Davies MP
- Public CCTV Managers Association
- Quadrant Security Group
- Safer Birmingham Partnership
- Security Institute
- Security for Women
- SPP Solutions Ltd
- South Yorkshire Local Transport Planning Partnership
- Swift Credit Services
- Synetics Security Networks
- Tavcom Ltd
- Transport for London
- Trevor Ellis Consulting Ltd
- Vehicle and Operator Services Agency
- West Midlands Housing Group
- Wyre Forest Community Housing

(58)

### **MEMBERS OF THE PUBLIC**

(16)

TOTAL = 107

