

# In the picture: A data protection code of practice for surveillance cameras and personal information

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# Inspiring public trust and confidence



# Regulating surveillance cameras

## The roles of the two Commissioners

- Surveillance Camera Commissioner:
  - Reviews, encourages and monitors compliance
  - Has no direct enforcement/complaint handling functions
  - Provides an annual report to Secretary of State
- Information Commissioner:
  - Encourages and can monitor compliance with DPA
  - Handles complaints ( requests for assessment)
  - Issues guidance including CCTV Code of Practice
  - Is accountable to Parliament by submitting an annual report and special reports
  - Can take enforcement action/prosecute
  - Can impose monetary penalties of up to £500k

# ICO Action:

## Information rights cases involving surveillance technology

- DPA: National ANPR Data Centre 6.7 billion deletions undertaken and new retention rules implemented
- DPA/HRA:
  - Use of CCTV with continuous sound recording in taxis ruled unlawful
  - Enforcement action on extensive use of ANPR around a small town
- FOIA-publishing precise location of ANPR cameras used by police is not required
- Further DPA cases under consideration:
  - Extensive use of CCTV by a local authority to enforce parking/traffic restrictions-New road signs for ANPR?

# Regulating surveillance cameras

## Collaboration between Commissioners

- The ICO has initiated work with all commissioners regulating surveillance and has produced a 'surveillance road map'
- The ICO has concluded an MoU with the Surveillance Camera Commissioner setting out their working relationship
- We work together on areas of common interest like PIAs
- The ICO is on the Surveillance Camera Commissioner's Advisory Council

# Why do we need two codes of practice?

- The ICO code covers the legally enforceable compliance requirements in the DPA and FOIA
  - It provides good practice advice to help to comply with these duties
  - It provides additional regulatory assurance on what standards the ICO expects to bodies to adopt to comply with the law
  - This gives a good idea of areas where the ICO is more likely to take action
- The DPA applies to all sectors and across the whole UK (FOIA -all public authorities excluding Scotland)

# Covered by DPA but not PoFA



# Two codes of practice: double trouble or twice as nice?

- The SC code was developed with input from the ICO
- The SC code can cover things not within the scope of the DPA/FoIA
- Its provisions are consistent with information rights requirements and the revised ICO code with the SC code
- Following each code helps comply with both legal obligations
- The ICO revised code refers to the SC Code 'guiding principles'
- This helps ensure compatibility and consistency
- It indicates how the ICO may cite the SC code in DPA proceedings
- The SC Commissioner and Home Office consulted on ICO code



# In the Picture: Updating the ICO CCTV Code

- First ICO CCTV code published in 2000 and revised in 2008
- Changes in law, technology and practice
- The surveillance camera code of practice provisions
- Lessons from case law (DPA/FoIA/HRA)
- Developments in technology/practice such as:
  - Body worn cameras/video
  - Automatic Number Plate Recognition (ANPR)
  - Unmanned aerial systems (UAS)

# In the Picture: The latest ICO CCTV Code

- It was subject to extensive consultation
- It keeps its practical format; not a legal text book
- It includes updated illustrative examples
- It dovetails with the ICO codes like the PIA code of practice
- It links to the 'guiding principles' in the Surveillance Camera Code of Practice
- It reflects changes in practical use of cameras

# In the Picture: What is in it?

- What's covered and what's not
  - Household use- But is being amended to cover this
  - Covert surveillance under RIPA
  - Journalistic, artistic or literary purposes ( media)
- Deciding on need
- Governance and compliance arrangements
- Selecting and deploying systems
- New surveillance technologies

# In the Picture: What is in it?

- Using the equipment
- Responsibilities including signs
- Small business/limited user checklist
- The Surveillance Camera Code of Practice Guiding Principles

# In the Picture: What's changed?

- Greater emphasis on:
  - Privacy impact assessments before deployment
  - Governance arrangements
  - Subject access requirements
  - Privacy notices especially on roads
  - Security
- Links to work of Surveillance Camera Commissioner/Code
- New guidance on:
  - Body worn video
  - ANPR
  - Unmanned aerial systems

# Body worn video cameras



# Surveillance in Practice

## Body Worn Video

- Establishing regulatory and legal framework
- Policy and decision making about when cameras should be used
- Fair processing
- Excessive processing
- Security
- Retention/subject access

# Continuous recording justified?

" turn next right and the railway station is across the road"

"I am arresting you on suspicion of theft, you do not have to say anything but..."





# Automatic Number Plate Recognition



# Surveillance in Practice

## ANPR

- Significant strides made already with regards to retention of ANPR data by Police forces
- Balancing transparency and fair processing requirements with crime prevention
- Increased use of ANPR by private sector companies
- Lawful processing – particularly when used by the police

# Hertfordshire Constabulary - Royston

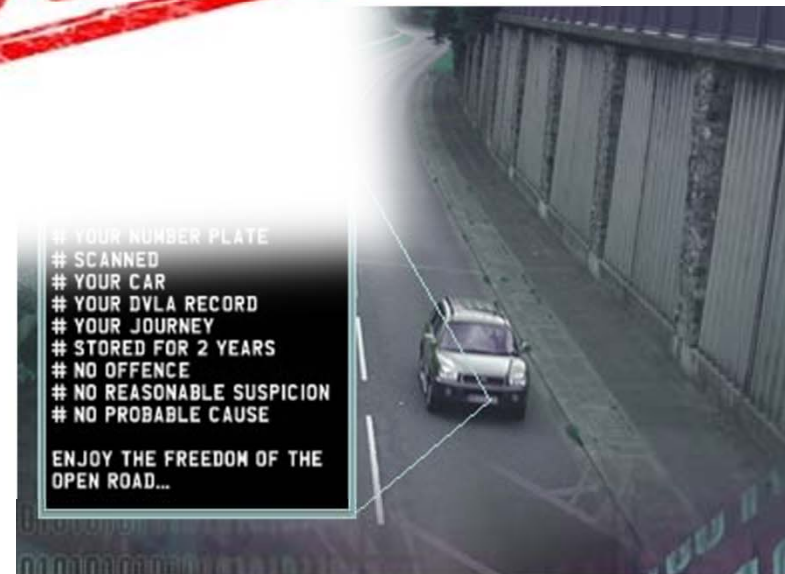


Image by No CCTV / DARPA Big Data Image





# Surveillance in Practice

## Unmanned aerial systems

- Not yet widely used but costs decreasing
- How to provide effective fair processing?
- Potential issues around collection of excessive personal data
- Proportionality – potential for greater privacy intrusion so need for strong justification
- HoL European Union Cttee inquiry: evidence on the civil use of remotely piloted aircraft systems (RPAS) in the EU

# Household use of CCTV

- CJEU Ryneš case from Czech Republic
- Concerned images of individuals caught by CCTV cameras installed on domestic property
- The CJEU held:
  - Where images of individuals are captured outside the confines of the household these are covered by EU DP law (i.e. the household processing exemption does not apply)
  - Such processing can take place but needs to comply with DP law
- ICO amending CCTV code and producing separate guidance

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