

## Memorandum of Understanding

### The Information Commissioner and The Surveillance Camera Commissioner

#### **Introduction and Purpose**

1. The Information Commissioner and the Surveillance Camera Commissioner (the Commissioners) have distinct responsibilities and interests for ensuring the effective regulation of surveillance cameras in the context of their own statutory roles. They are both committed to ensuring that there is close cooperation in the conduct of their respective statutory duties so as to ensure that there is effective regulation. In particular the Commissioners are committed to ensuring that regulatory activity is undertaken in a way which enables individuals, organisations and other stakeholders to be clear about how the responsibilities of the Commissioners are discharged individually, and collectively and also better understand their own responsibilities and rights in that regard.
2. This Memorandum of Understanding (MoU) is a statement of intent that does not give rise to legally binding obligations on the part of either the Information Commissioner or the Surveillance Camera Commissioner. It has at its heart, the protection of the fundamental rights and freedoms of citizens in respect of their privacy, the protection of their personal information and also the public interest which arises when balancing those considerations against a legitimate duty to protect communities, where it is necessary to do so.
3. In that regard the purpose of this MoU is to establish and clearly set out a framework for co-operation, co-ordination and information sharing between the Surveillance Camera Commissioner and the Information Commissioner in connection with the sharing of relevant information and the delivery of their statutory functions where it is considered by the Commissioners to be in the public interest for them to do so. It sets out the role of the offices of each Commissioner and also the practical working level arrangements between the Information Commissioner and the Surveillance Camera Commissioner.

#### **Review Process**

4. The Commissioners will ensure that arrangements are in place which keep the effectiveness of this MoU under continual review and will personally review the efficacy of its provisions after an initial period of six months from the date of this document having been signed as agreed, and thereafter on an annual basis. Any

changes to this memorandum which are identified as being necessary between the Commissioners may be agreed in writing between them.

### **Functions and powers of the Information Commissioner**

5. The Information Commissioner is a corporation sole appointed by Her Majesty the Queen under the Data Protection Acts 1984 and 1998 to act as the UK's independent regulator promoting public access to official information and protecting personal data.
6. The Information Commissioner regulates the Data Protection Act 1998 (DPA), the Freedom of Information Act 2000 (FOIA), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (PECR), the Environmental Information Regulations 2004 (EIR) and the INSPIRE Regulations 2009. The Information Commissioner also has specific regulatory powers under other legislation such as the Investigatory Powers Act 2016
7. Section 51 of the DPA places a duty on the Information Commissioner to promote the following of good practice by data controllers and the observance of the requirements of the DPA by organisations.
8. Where the Information Commissioner is satisfied that any of the data protection principles have been breached, a number of steps can be taken to seek to change the behaviour of the organisation including:
  - serving information notices requiring organisations to provide the Information Commissioner's Office with specified information within a certain time period;
  - issuing undertakings committing an organisation to a particular course of action in order to improve its compliance;
  - serving enforcement notices where there has been a breach, requiring organisations to take (or refrain from taking) specified steps in order to ensure they comply with the law;
  - conducting assessments to check organisations are complying; and
  - issuing monetary penalty notices, requiring organisations to pay up to £500,000 for serious breaches.
9. The Information Commissioner may also prosecute those who commit criminal offences under the DPA.

### **Functions of the Surveillance Camera Commissioner**

10. The Surveillance Camera Commissioner is appointed by the Secretary of State for the Home Department under Section 34(1) of the Protection of Freedoms Act 2012 (PoFA).
11. PoFA applies to the use of overt surveillance camera systems (as defined by the act) by relevant authorities in England and Wales. Relevant authorities include Chief Officers of police, Police and Crime Commissioners and Local Authorities. Under the provisions of PoFA those organisations must have regard to the Secretary of State's Surveillance Camera Code of Practice (the Code). The Code also requires the Surveillance Camera Commissioner to encourage voluntary adoption amongst all organisations and operators using surveillance camera systems.
12. The functions of the Surveillance Camera Commissioner include:-

- Encouraging compliance with the Code;
  - Reviewing the operation of the Code;
  - Providing advice about the Code (including changes to it or breaches of it) and publish an annual report.
13. 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 approved occupational and competency standards for persons using these systems or processing images and information obtained by these systems. is expected to provide advice about the relevant operational, technical, quality management and occupational competency standards which are available for a system operator. In reviewing the operation of the Code the Surveillance Camera Commissioner considers the impact of this system of regulation against published success criteria and the opportunities to improve compliance in line with better regulation principles.
14. The Surveillance Camera Commissioner has produced a National Surveillance Camera Strategy (England and Wales). Implementation and oversight of this Strategy enables the Surveillance Camera Commissioner to more effectively discharge his statutory function in advising the Secretary of State as to the operation of the Code.

**Cooperation between the Information Commissioner and the Surveillance Camera Commissioner**

15. Subject to any legal restrictions on the disclosure of information (whether imposed by statute or otherwise) and at his discretion, the Surveillance Camera Commissioner agrees that he will alert the Information Commissioner to any relevant breaches discovered whilst undertaking his duties in relation to individual cases, providing relevant supporting information and intelligence. The Surveillance Camera Commissioner will also alert the information Commissioner to any wider or systemic failings that may give rise to concerns about data protection compliance.
16. Subject to any legal restrictions on the disclosure of information (whether imposed by statute or otherwise) and her discretion, the Information Commissioner agrees that she will alert the Surveillance Camera Commissioner to any potential breaches, or information relevant to his functions set out above, discovered whilst undertaking her duties, provide relevant supporting information and keeping the Surveillance Camera Commissioner updated on the progress of these cases.
17. Subject to any legal restrictions on the disclosure of information (whether imposed by statute or otherwise) and at their discretion, both parties agree that they will alert the other party as to any information or intention relating to their own particular function which relates to a surveillance camera system as defined by PoFA, where they consider that there is relevance to the functions of the other party, and to consult further in relation to any action which either party considers appropriate to undertake. In particular where either party considers it appropriate to publish information or provide a communication to the media, or support a request from the media for publicity then on a case by case basis the Commissioners will consult prior to any communication being made or where this is not practicable, as soon as is practicable thereafter.

### **Designated Point of Contact**

18. Each Commissioner will identify a Designated Point of Contact (DPC) within their respective organisation who will be the primary point of contact with responsibility for communication between the two Commissioner bodies and for ensuring the effective liaison between both parties within the terms of this MoU.
19. Subject to any legal restrictions on the disclosure of information (whether imposed by statute or otherwise) the key responsibilities of each DPC are as follows:
  - To ensure the effective and timely communication and receipt of information between the parties within the terms of this MoU.
  - To ensure that an appropriate assessment is made as to the relevancy and priority of any matter communicated so as to determine whether further action, dissemination of information or advice is appropriate and take responsibility for ensuring all areas of receipt and assessment of information of mutual concern is effectively processed and that any such information is accompanied by clear decision making and effective dissemination.
  - To horizon scan and identify potential areas of relevant interest and focus of each party which may overlap, duplicate effort, conflict or may otherwise benefit from a co-ordinated approach.
  - To ensure that each Commissioner is notified promptly of any matter which is considered to merit their attention and this includes escalating matters to the Commissioners which are considered by either party to merit further action, or inaction, by one or both parties where agreement cannot be reached by the DPC's.
  - Maintain appropriate records of information which may assist the Commissioners in determining the effectiveness of the arrangements set out in this MoU. In particular the DPC's are responsible for identifying trends and areas where more strategic thinking or action may be of value on behalf of both parties.

### **Disclosure of information**

20. Subject to any disclosure restrictions applicable to the Surveillance Camera Commissioner, he may disclose confidential information to the Information Commissioner to facilitate the carrying out any required function of the Surveillance Camera Commissioner or a statutory function of the Information Commissioner.
21. Where the Surveillance Camera Commissioner wishes to disclose to the Information Commissioner information necessary for the discharge by the Information Commissioner of her functions under the DPA (or under FOIA), section 58 DPA provides that no enactment or rule of law prohibiting or restricting the disclosure of information shall preclude the Surveillance Camera Commissioner from furnishing such information to the Commissioner.
22. In respect of information obtained by or furnished to the Information Commissioner for the purposes of her functions under the Information Acts, it is an offence under section 59 DPA for any current or former member of the Information Commissioner's staff or her agent to disclose such information without lawful authority.

23. Section 59(2)(e) DPA provides that a disclosure by the Information Commissioner of information obtained by or furnished to her is made with lawful authority where, having regard to the rights and freedoms or legitimate interests of any person, the disclosure is necessary in the public interest.
24. In addition, section 59(2)(d) DPA provides that a disclosure of information by the Information Commissioner is made with lawful authority where the disclosure is made for the purposes of any proceedings, whether criminal or civil.
25. Section 59(2)(c) of the DPA provides that a disclosure by the Information Commissioner of information obtained by or furnished to her is made with lawful authority where the disclosure is made for the purposes of, and necessary for, the discharge of any functions under the Information Acts (in this case the DPA).
26. The Information Commissioner may, at her discretion and in accordance with sub-sections 59(2)(c), (d) and/or (e) DPA, disclose confidential information to the Surveillance Camera Commissioner where this is necessary for performing the functions set out at 11 to 13 above.
27. Where a request for information is received by either party under the DPA or FOIA, the recipient of the request will seek the views of the other party as described in the FOIA section 45 Code of Practice, where the information being sought under the request includes information obtained from, or shared by, the other party. However the decision to disclose or withhold the information remains with the party in receipt of the request.
28. When exchanging information the provider will mark it with the appropriate security classification and ensure that the information is disclosed securely. The receiver will ensure that the information is managed appropriately with adequate security arrangements in place to protect the information.
29. **Designated Points of Contact**

Surveillance Camera Commissioner	Information Commissioner
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
Email: [REDACTED]	Email: [REDACTED]
Telephone: [REDACTED]	Telephone: [REDACTED]

Surveillance Camera Commissioner



Tony Porter  
Surveillance Camera Commissioner

Information Commissioner



Elizabeth Denham  
Information Commissioner