

The use of dashboard-mounted video recording systems ('dash cams') has increased in recent years as devices have become more affordable. In most cases, the purpose for installing a dash cam is to protect a vehicle and/or to establish liability in the event of an accident.

Dash cams record personal data and it is therefore important that persons who operate a dash cam understand their obligations under the data protection legislation. This includes compliance with the data protection principles, the rights of individuals, and the obligation to maintain a register entry with the Information Commissioner, which is subject to an annual fee.

Data Protection Legislation

Data protection legislation applies to persons who obtain and process personal data. The definition of personal data includes images and voice recordings of an individual as well as any other indirect identifiers such as the number plate of a privately owned vehicle.

Any person who installs and operates a dash cam in a **commercial vehicle**, for example a taxi, must comply with the legislation.

Where a dash cam is installed in a **private vehicle**, it will depend on whether or not the processing is for 'a purely personal or household activity'.

This was considered by the Court of Justice of the European Union (CJEU) in the case of *Rynes vs Urad* (2014). In its decision, the CJEU stated:

"To the extent that video surveillance [...] covers, even partially, a public space and is accordingly directed outwards from the private setting of the person processing the data in that manner, it cannot be regarded as an activity which is a purely 'personal or household' activity."

Although the above case related to a fixed CCTV system on a domestic property, the interpretation of a "purely personal or household activity" applies to persons using dash cams in their **private vehicles**.

Where a dash cam in a **private vehicle** records external images, the CJEU decision indicates, in general, that the legislation applies. However, if the images are only accessed or used in the event of a security incident or accident, then the legislation should not apply.

In all other circumstances, the legislation will apply.

Controllers' obligations

A person who determines the purposes and means for processing personal data is known as a 'controller.' The person who decides to install a dash cam and record images is the controller.

Controllers must comply with the data protection legislation, and be able to demonstrate their compliance with the legislation when requested to do so by the Information Commissioner.

In brief, this means:

Data Protection Principles

- **Personal data must be processed lawfully**

In general, it will only be lawful to process dash cam footage if the processing is necessary for the purposes of the legitimate interests of the controller. Processing personal data for the protection of a vehicle and/or to establish liability in the event of an accident are legitimate interests.

However, the controller will be required to identify the legitimate interest for processing footage for any other purpose and must be able to demonstrate compelling grounds for overriding the rights and freedoms of individuals (See the Right to object).

- **Personal data must be processed in a transparent manner**

Clearly visible signs stating that recording is taking place must be attached to the vehicle.

Further information providing your contact details, why you are processing personal data, what you will do with the images and how long you will retain the personal data will be required and must be provided on request.

In the event of an accident, you should inform the other party that you have a recording.

- **Personal data must be processed for specified, explicit and legitimate purposes**

Images recorded for the purpose of vehicle security or establishing liability in the event of an accident should not be used for any incompatible purpose.

- **Personal data must be limited to that which is necessary for the purpose**

Consider the extent of data captured by the dash cam and only capture what is required; that is how far in front or to the rear of a vehicle do you need to record?

- **Personal data must only be retained for as long as required**

Images of an accident may be required for a claim or investigation and can be retained for as long as necessary for that purpose. Other images should be routinely deleted, for example every day or at least every week.

- **Personal data must be kept securely**

Limit who has access to your dash cam and any associated storage media (e.g. SD card, external storage devices or cloud services).

Rights of individuals

Controllers must comply with the exercise of any right without undue delay and in any event within one month. No fees can be charged.

Controllers must, therefore, be able to access and manage the dash cam footage in order to comply with the rights of individuals, including the blurring of images of other individuals, number plates etc. where necessary.

- **Right of access to personal data**

Individuals have a right to access their personal data. If someone requests their personal data (this includes a verbal request), their personal data must be provided and, in doing so, it may be necessary to remove the personal data of other individuals, for example by blurring faces and number plates.

- **Right to object**

Individuals have the right to object to the processing of their personal data. If someone does object, the controller cannot process the personal data unless they can demonstrate compelling legitimate grounds for the processing that override the interests, rights and freedoms of the individual or that the processing is necessary for the establishment, exercise or defence of legal claims.

- **Right to erasure**

Individuals have the right to request the erasure of their personal data. Controllers must comply with that right unless there is an exception, for example ongoing legal proceedings. If the controller has made dash cam footage public, the controller must inform any other controllers processing that dash cam footage of the erasure request as it extends to any link to, copy or replication of the footage.

Register Entry

- Controllers must maintain an entry in the register of controllers and processors. The register entry incurs an annual fee and it is an offence to process personal data without a register entry if one is required.

Publication of Images

The publication of any personal data, including the number plate of a private vehicle, obtained via dash cam, for example on social media platforms, is further processing that is likely to be incompatible with the initial purpose for processing. Such publication is likely to infringe the privacy rights of individuals as well as the data protection legislation.

Sharing Images

The Constabulary may request a copy of any images recorded via dash cam. The Constabulary should be in a position to demonstrate that the images are necessary for the investigation or prosecution of a criminal offence. The provision of such data to the Constabulary in such circumstances will not infringe the data protection legislation.

It may be necessary to disclose images to an insurance company in the event of an accident. This will not infringe the data protection legislation, as there is an exemption for such disclosures.

Any other sharing of the dash cam images is likely to infringe the data protection legislation.

Complaints

Individuals have a right to make a complaint to the Information Commissioner about the processing of their personal data or a failure to comply with their rights.

Controllers must cooperate with the Information Commissioner, upon request, when complaints or other matters are being investigated.

Infringements of the data protection legislation may lead to enforcement action, including banning the processing, or a financial penalty up to £1 million.

Further Information

The above is summary advice that should be read in conjunction with the guidance on the use of surveillance equipment available on the website.

General guidance on registration, how to comply with the data protection legislation and the rights of individuals is also available on the website.

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