

As part of our thorough GDPR preparation we have sought legal advice specifically to the use of dash cams in vehicles and our understanding is as follows:

- 1) Personal data will include images and video recorded by used in your fleet.
- 2) You will be the controller of the personal data recorded and therefore responsible for ensuring you have a lawful basis for the processing you are carrying out.
- 3) That lawful basis could be for the purposes of pursuing your legitimate interest (as set out in Article 6 (f) of the GDPR).
- 4) The ICO suggests that where you rely on the legitimate interest basis for processing you need to satisfy a three part test as follows:
 - a. Identify the legitimate interest: in the case of used in your fleet the legitimate interest could be proof of what happened at an accident for liability and insurance purposes;
 - b. Show that the processing is necessary to achieve the legitimate interest: without a video of an accident, you will not be able to prove what happened if the other party disputes your drivers version of events and therefore the processing is necessary to achieve the legitimate interest;
 - c. Balance the processing against the individual's interest, rights and freedoms: this involves considering whether the processing would cause unjustified harm to the individuals' whose images captured by the dash cam. It would not cause unjustified harm if the footage was used as evidence against an individual that caused an accident. In all other situations (i.e. where there has not been an accident) the operates to override previous footage (for example, a 32G memory card loops every 4 hours) and so it will not cause unjustified harm to as the personal data is deleted almost immediately (providing your drivers do nothing else with the footage). This is similar to the operation of CCTV.
- 5) On this basis, it is our understanding that provided you are using the personal data recorded on your to support your legitimate interest only (e.g. proving you were not at fault at in an accident) then you will be compliant from a GDPR perspective.
- 6) Whilst the above reasoning is based on the advice we have received from our legal advisers, your individual circumstances and use of the will need to be considered. As such the advice does not extend to you. If you still have concerns about the use of commercially, please consult your own legal team for further advice.

OPTIONAL

Other things you need to think about:

- 1) GDPR requires you to include the details of your legitimate interests in your privacy policy;
- 2) Where relying on legitimate interests you need to carry out a legitimate interests assessment (LIA) to demonstrate compliance if required. This involves recording why you think you have a legitimate interest in processing data in the way you are;
- 3) To minimise the risk of unjustified harm arising, you could consider limiting access to within your business to certain managers and/or put in place a policy advising your drivers that they must not access the footage e.g. by downloading it or recording it on their personal devices. Any such decisions should be recorded in the LIA mentioned above.
- 4) Whilst the above reasoning is based on advice we have received from our legal advisers, your individual circumstances and use of the will need to be considered. As such the advice does not extend to you. If you still have concerns about the use of commercially, please consult your own legal team for further advice.