

## **The Information Commissioner's response to the Scottish Government's consultation on compulsory CCTV recording at abattoirs in Scotland**

1. The Information Commissioner welcomes the opportunity to respond to the Scottish Government's consultation on the introduction of compulsory CCTV recording of slaughter at abattoirs in Scotland.
2. The Commissioner has responsibility for promoting and enforcing the EU General Data Protection Regulation (GDPR), the UK Data Protection Act 2018 and the Privacy and Electronic Communications Regulations 2003, as well as the Freedom of Information Act 2000, the Environmental Information Regulations 2004 which apply to reserved matters in Scotland.
3. The Commissioner is independent of government and upholds information rights in the public interest, promoting openness by public bodies and data privacy for individuals. The Commissioner does this by providing guidance to individuals and organisations, solving problems where she can, and taking appropriate action where the law is broken.
4. The Commissioner notes that the consultation is concerned with ensuring animal welfare at every stage of the slaughtering process. However, CCTV will likely record the personal data of those working in slaughterhouses, including their images and actions, with the potential for consequences if staff are not following animal welfare rules. This means the CCTV recordings are likely to fall within the scope of data protection law.
5. The comments below are focussed on the questions that relate to the processing of personal data. The Commissioner hopes they assist the Government in developing a data protection impact assessment to address the issues arising from the proposal.

### **Q1. Should CCTV recording in all areas of approved slaughterhouses in Scotland where live animals are present be compulsory?**

6. As CCTV recording would be likely to include recording those working in slaughterhouses, data protection law requires that the processing of personal data be fair, lawful and transparent. Data protection does not prevent the monitoring of workers in the course of their employment, but such monitoring must be appropriate, proportionate and in compliance with the law. Food Business Operators would need to make their staff and visitors

aware that they were being recorded by CCTV cameras and that they have a number of data protection rights.

7. The Government must ascertain whether CCTV presents a necessary and proportionate interference with the individual's right to privacy under Article 8 of the European Convention of Human Rights. A human rights impact assessment should address this point and accompany any legislation which makes CCTV recording compulsory.
8. The Commissioner notes from the consultation document that the Government consulted on introducing compulsory CCTV in 2012. Since it decided at that time that a voluntary approach should be taken, the question is what has changed since 2012 to make compulsory CCTV necessary now? The Government should undertake a full balancing test with all the available evidence before proceeding with any legislation. This test should consider why other, less intrusive alternatives would not achieve the stated aims.
9. The use of CCTV should also be for specified, explicit and lawful purposes. Any future legislation should be clear about the purposes, for example ensuring adherence to animal welfare standards.
10. Slaughterhouses may use CCTV systems for other purposes. They should ensure that these purposes are also fair, lawful and clearly communicated to staff and visitors.

**Q3. Is it reasonable to require Food Business Operators to retain CCTV footage for 90 days?**

11. The Government should ensure that legislation only requires Food Business Operators to retain CCTV recordings for no longer than is necessary for the purposes set out in law. That should be based on this consultation and in particular the views of those who would be responsible for enforcing animal welfare standards.
12. A retention period set out in law would provide a clear rationale for businesses to retain and dispose of footage containing personal data. Any legislation should also allow businesses to retain footage in excess of the retention period if and to the extent an authorised person requires them to keep it until it can be viewed or provided to the authorised person for an official inquiry.

13. Businesses would also need processes in place to respond to requests from individuals exercising their rights under data protection law while they retain the footage.

**Q4. Should there be unrestricted access to CCTV footage, both real time and stored, for reasons of ensuring animal welfare by officers authorised by the Scottish Ministers?**

14. Access to the personal data on the CCTV recordings should be limited to authorised persons. This will likely include managers within the business, as well as Official Veterinarians and any other persons authorised by law.
15. In determining any other persons who should be allowed to access CCTV recordings, the Government should ensure that only those persons or categories of persons who have a justifiable need in relation to the statutory purpose(s) are authorised.
16. If the Government's intention is that no one other than authorised officers and businesses or their staff should be entitled to access CCTV footage, then this should be clearly stated in the legislation with either a blanket prohibition on disclosure, or a prohibition linked to the statutory purposes. Without this, the footage of those working in slaughterhouses could be further disclosed so long as that is done within the framework of data protection law.
17. Of course, individuals who feature in the footage will retain their right to access of copy of the recordings of them under data protection law. This right may be restricted if it is necessary for the business or any other data controller in possession of the footage to rely on an appropriate exemption under the Data Protection Act 2018.
18. The disclosure of the CCTV footage by the business to any authorised persons should be evidenced by appropriate audit trails to comply with their obligation under Article 6(2) of the GDPR. If the footage is being taken or transmitted off-site, then appropriate security measures will also be required.

**Additional comments**

19. Under data protection law, the personal data collected by CCTV must be adequate, relevant and limited to what is necessary for the purpose(s). If CCTV is made compulsory in slaughterhouses, it would be helpful for the

Government or Food Standards Scotland to provide minimum technical specifications so businesses are procuring systems which are both of sufficient quality and compatible with systems used by those enforcing animal welfare laws.

20. If the Government or Food Standards Scotland intend to prepare any guidance for businesses on any new CCTV requirements, the Commissioner would welcome the opportunity to contribute to that from a data protection perspective.
21. Businesses may have CCTV that record audio. The Commissioner considers that audio recording has the potential to be more privacy intrusive than purely visual recording and thus would require greater justification for use.
22. Businesses may find it beneficial to undertake a data protection impact assessment (DPIA)<sup>1</sup> to ensure compliance with data protection law. This may be a mandatory requirement for any business that does not already have CCTV monitoring at least part of the slaughtering process. Any DPIA should include assessing their use of CCTV against the Commissioner's code of practice for surveillance cameras and personal information.<sup>2</sup>

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<sup>1</sup> <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/accountability-and-governance/data-protection-impact-assessments/>

<sup>2</sup> <https://ico.org.uk/media/for-organisations/documents/1542/cctv-code-of-practice.pdf>