
25 January 2021

New regulations came into effect on 4 April 2020 to allow Councils to hold meetings remotely via electronic means. As such, Council and Committee meetings will occur with appropriate Councillors participating via a remote video link, and public access via a live stream video through the [Mid Sussex District Council's YouTube channel](#).

Dear Councillor,

A meeting of **LICENSING COMMITTEE** will be held **VIA REMOTE VIDEO LINK** on **TUESDAY, 2ND FEBRUARY, 2021 at 4.00 pm** when your attendance is requested.

Yours sincerely,
KATHRYN HALL
Chief Executive

A G E N D A

	Pages
1. Roll Call and Virtual Meetings explanation.	
2. To receive apologies for absence.	
3. To receive Declarations of Interest from Members in respect of any matter on the Agenda.	
4. To confirm the Minutes of the previous meeting held on 22 September 2020.	3 - 6
5. To consider any items that the Chairman agrees to take as urgent business.	
6. Consideration of the Responses to the Public Consultation Regarding Amendments to the Hackney Carriage and Private Hire Licensing Policy as a Result of the DFT Statutory Guidance.	7 - 110
7. Questions pursuant to Council Procedure Rule 10.2 due notice of which has been given.	

To: **Members of Licensing Committee:** Councillors J Knight (Chair), Anthea Lea (Vice-Chair), G Allen, P Chapman, R Cromie, J Dabell, L Gibbs, I Gibson, J Henwood, C Laband, G Marsh, S Smith, N Walker, R Webb and N Webster

**Minutes of a meeting of Licensing Committee
held on Tuesday, 22nd September, 2020
from 4.00 pm - 4.38 pm**

Present: J Knight (Chair)
Anthea Lea (Vice-Chair)

G Allen	L Gibbs	G Marsh
P Chapman	I Gibson	S Smith
R Cromie	J Henwood	R Webb
J Dabell	C Laband	N Webster

Absent: Councillors N Walker

Also Present: Councillors

1. ROLL CALL AND VIRTUAL MEETINGS EXPLANATION.

The Chairman introduced the meeting and took a roll call of Members in attendance. The Licensing Solicitor explained the virtual meeting procedure.

2. TO RECEIVE APOLOGIES FOR ABSENCE.

Apologies were received from Councillor Walker.

3. TO RECEIVE DECLARATIONS OF INTEREST FROM MEMBERS IN RESPECT OF ANY MATTER ON THE AGENDA.

None.

4. TO CONFIRM THE MINUTES OF THE PREVIOUS MEETING HELD ON 17 FEBRUARY 2020.

The Minutes of the meeting of the Committee held on 17 February 2020 were confirmed as a correct record, with 13 votes for and 1 abstention and signed by the Chairman.

5. TO CONSIDER ANY ITEMS THAT THE CHAIRMAN AGREES TO TAKE AS URGENT BUSINESS.

None.

6. AMENDMENTS TO THE HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY AS A RESULT OF THE DFT STATUTORY GUIDANCE.

Michael Bateman, Team Leader for Licensing, Food and Safety introduced the report. He noted that nothing had been added to the draft guidance had been

discussed by the Committee at the meeting in February. He highlighted the main changes in the draft policy.

The Vice-chairman welcomed the report which introduced standards for local authorities licensing policies for hackney carriages and private hire vehicles. She highlighted that the Council's Licensing Policy has a strong focus on safety.

Members expressed concern with the cost implications for safeguarding training and the installation of CCTV *and the Council as Data Controller*. They noted that most drivers are self-employed and the impact of the pandemic on their income.

The Officer confirmed that currently the cost of renting CCTV equipment was £20.75 a month for 2 cameras and £29.86 a month for 4 cameras with £39 fitting costs. Equipment could be bought from £499 to £763 and other systems were available from £350.

The Vice-chairman advised that CCTV will safeguard the public and suggested a longer lead in time that suggested in the statutory guidance.

Members discussed who should have a duty to report accidents, and whether to include the operator of the licensed vehicle and the driver along with the proprietor.

Franca Currall, Licensing Solicitor noted the duty to report all accidents to insurance companies. Any licensed vehicle there should be an obligation to report accidents to the local authority. The number of reports received may depend on the level of damage. She reminded Members that the badges must be displayed in the front of vehicle and any concerned patron should take a photo of licence plate.

With regard to the additional costs for licence holders she advised that the Council is charged with public safety and have to use legal and local knowledge to protect the public, CCTV will protect both the public and the drivers. She noted the two-year lead in period for installation of CCTV and noted that the cost may reduce over that time. The Council could also look to procure a cheaper system by economies of scale. The mandatory courses on disabled and vulnerable people are to be paid for by the drivers themselves in addition to the application fee for the licence.

The Officer commented that the proprietor has a duty to report as they have the responsibility for the vehicle and ensuring it is maintained in a roadworthy condition. They are the responsible person who must notify the Council.

The Chairman reminded the Committee to report any matters to the Licensing Team for investigation. Members were reminded that there is an obligation under the Road Traffic Act for the driver to provide their details following an incident.

The Solicitor advised that any changes to the wording should be discussed by the Committee, these are national minimum standards. Legally the owner / proprietor of the licensed vehicle must inform the Licensing Authority. She noted that some proprietors lease out their vehicles

Councillor Marsh proposed that the policy be amended to add that the driver should report any incidents to the Council. The Chairman took a vote and 12 Members voted in favour and there were 2 abstentions.

The Solicitor suggested that the officers report back to the Committee with any amendments suggested by the Members. Any amendments to lead in times could be discussed with the trade during the Consultation Period.

Members discussed drivers charging additional charges for suitcases, the evidence CCTV would provide for the Licensing Sub-Committee A meetings. It was noted that CCTV could help enforce drivers wearing face masks.

The Business Unit Leader, Yvonne Leddy advised the Chairman that this practice had been raised with the trade and there had not been a reoccurrence of this.

Councillor Webster, Cabinet Member for Community noted that any issues that arise are discussed with the trade, the Licensing Team seek to get their support and keep them informed. The lead in time for the white livery of MSDC licensed vehicle was set at 10 years. The key point is for passengers and drivers to feel safe.

Councillor Henwood proposed extending the lead in time to install CCTV. The Chairman took a vote to keep the lead in time at 2 years, 12 Members voted in favour, 1 vote against and there was 1 abstention.

The Chairman highlighted that any changes to the Licensing Policy would go before the Scrutiny Committee for Community, Customer Service and Service Delivery for further discussion.

He noted no more Members wished to speak so moved the Committee to the recommendation to note the report which was agreed unanimously.

RESOLVED

The Committee endorsed the changes and amendments to the Hackney Carriage and Private Hire Licensing Policy at Appendix 1 before it is issued for public consultation.

7. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 10.2 DUE NOTICE OF WHICH HAS BEEN GIVEN.

None.

The meeting finished at 4.38 pm

Chairman

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CONSIDERATION OF THE RESPONSES TO THE PUBLIC CONSULTATION REGARDING AMENDMENTS TO THE HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY AS A RESULT OF THE DFT STATUTORY GUIDANCE.

REPORT OF: Tom Clark, Head of Regulatory Services

Contact Officer: Jon Bryant, Senior Licensing Officer
Email: jon.bryant@midsussex.gov.uk Tel: 01444 477076

Wards Affected: All

Key Decision No

Purpose of Report

1. To seek the Committee's consideration of the responses received during the public consultation of the draft policy changes to the Hackney Carriage and Private Hire Licensing Policy as detailed in Appendix 1. It is proposed that following this consideration the revised policy will be approved by the Cabinet Member for Community for implementation on the 1st May 2021.

Recommendations

2. **The Committee is invited to consider the responses that have been received as a result of the public consultation and discuss the following options to be incorporated into the policy to reflect those comments:**
 - I. **Amend the proposed policy amendment to read that from 1st October 2022 all new licensed diesel vehicles would need to comply with the Euro 6 emissions standard. This would mean that vehicle proprietors who have already prepared for the livery changes would not be forced to change their vehicles again**
 - II. **Revise the deadline for the introduction of Euro 6 compliance to 1st October 2025 instead of the 1st October 2022 to provide vehicle proprietors an opportunity to recover from the economic impact of the Covid 19 pandemic and allow them to plan for changing their vehicles.**
 - III. **Keep all other proposals within the draft policy as is as they are considered statutory guidance.**

and

 - IV. **Discuss the impact of the phasing out of fossil fuelled cars from the taxi and private hire fleet in line with current government proposals to stop the sale of these vehicles in 2030 and to consider a deadline for these vehicles to be totally removed from the licensed fleet.**
- and
3. **Recommend to the Cabinet Member for Community to approve the revised policy with the agreed amendments in point 2 above for adoption and implementation on the 1st May 2021.**

Background

4. The purpose of the Policy is to set out the terms and conditions that will apply to those seeking licences for the Hackney Carriage or Private hire trade, to protect the public and help ensure they receive a good service. The policy brings together all the various strands of the Council's existing conditions and practices.
5. Section 177 of the Policing and Crime Act 2017 enables the Secretary of State for Transport to issue Statutory Guidance on exercising Taxi and PHV licensing functions to protect children and vulnerable individuals from harm when using these services.
6. The DfT has now issued the Statutory Guidance document. The Guidance document recommends that these measures should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting these standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.
7. Licensing authorities "must have regard" to the Statutory Guidance when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. "Having regard" is more than having a cursory glance at a document before arriving at a preconceived conclusion. The Guidance further states "*Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated.*"
8. The proposed amended Policy changes were endorsed by this Committee on the 22nd September 2020.
9. The Proposed Changes to the Taxi and Private Hire Licencing Policy went out for Public Consultation for 6 weeks from the 5th October 2020 and ended on the 17th November 2020.

The document was published on the Council website and was also sent to the following interested parties:

- All Members
 - Members of Parliament for the District
 - Town and Parish Councils
 - All Licensed Drivers (Hackney and Private Hire)
 - All Licensed Operators
 - Police
 - WSCC
 - Neighbouring Authorities
 - Local Business Groups
 - Disability Organisations
 - Organisations representing the Elderly
 - Fawcett Society
 - GMB Union (Taxi Section)
10. A total of 20 responses were received from various parties. A summary of these responses is attached to this report at Appendix 2
 11. There were several more detailed responses received which are attached at Appendix 3

12. The biggest response was in relation to the proposed introduction of Euro 6 emissions standards for vehicles from 1st October 2022. Several drivers highlighted that this would potentially have a significant economic impact on drivers especially coming after loss of earnings during Covid19.
13. This amendment is not required to be introduced as a result of the Statutory Standards but was proposed in respect of concerns around air quality.
14. The Licensing Team have researched the number of vehicles that this change could potentially affect.
15. In respect of Hackney Vehicles' vehicles; those vehicles that are currently white that would be impacted have been identified. (Non-white vehicles will have to be changed by the 1st October 2022 under the existing 10-year policy and there is no indication that the 10-year rule will be relaxed for current drivers). The livery change has been anticipated for the last 10 years and proprietors of non-white vehicles should have already planned for this expense. The impact of the proposed emissions policy would be on those drivers who have already changed to white vehicles, as adopting the Emissions Standard would force them to change their vehicle a second time and this would be an unexpected significant expense.
16. There are currently 65 white hackney vehicles on the fleet (42% of the fleet), and of these 29 white vehicles would potentially need to be changed again to meet the Euro 6 requirements if implemented. (19% of the total Hackney fleet).
17. With regards to Private Hire vehicles, all non-white vehicles that could be impacted have been identified, as white vehicles will have to be changed by the 1st October 2022 under the existing policy. Therefore, the changes to Euro 6 from 1st October 2022 would potentially affect 64 vehicles (37% of the total Private Hire Fleet)
18. Under the current Policy when vehicles are 10 years old, they are removed from the licensed fleet and must be replaced. This would mean that under the existing policy from 1st September 2025 all diesel vehicles would be Euro 6 standard.
19. The potential options in respect of this proposal would be
 - Keep the proposed policy amendment as is
 - Amend the proposed policy amendment to read that from 1st October 2022 all *new* licensed diesel vehicles would need to comply with the Euro 6 emissions standard. This would mean that vehicle proprietors who have already prepared for the livery changes would not be forced to change their vehicles again.
 - Delay the introduction of this policy amendment to 1st October 2025 to provide vehicle proprietors an opportunity to recover from the economic impact of the Covid 19 pandemic and allow them to plan for changing their vehicles.
20. It is currently proposed that the sale of fossil fuelled vehicles will end in 2030. The Committee may wish to consider a deadline for the removal of these vehicles from the licensed fleet.
21. Under the current vehicle age requirement of 10 years it would mean that by 2040 the remaining fossil fuelled vehicles would be in the process of being removed from the fleet.

22. The additional responses to aspects of the proposed amendments to the policy were in general supportive although there were concerns from respondents around the costs associated with the implementation of Safeguarding and Disability Training and the introduction of mandatory CCTV.
23. When considering both the current and any future policy, the Council's role in safeguarding and protecting the travelling public cannot be understated, and that strong measures to improve standards in the trade should be built upon and not diluted.

Policy Context

24. The Licensing Policy is produced pursuant to powers conferred by the Local Government (Miscellaneous Provisions) Act 1976 as amended, which places a duty on the Council to carry out its licensing functions in respect of hackney carriage and private hire vehicles.

Financial Implications

25. The Council keeps the fees and charges under review annually and aims to recover as much of the cost of regulating taxi and private hire licensing services as we are legally able, through fees and charges paid by applicants and licence holders. Any additional costs arising from implementing and enforcing this policy will, where possible, be met through changes to taxi and private hire licence fees and charges.

In terms of potential costs to the trade, drivers are already able to sign up to the DBS update service at a cost of £13 per annum. By signing up to the update service, this would negate the need for drivers to pay for a new DBS every 3 years at an approximate cost of £71.

According to the Task and Finish Group report, in vehicle CCTV systems can cost as little as a new set of tyres. Any costs associated with the taxi trade can be included in the Council's Fare Calculator to enable recovery through the Fare tariff. It is anticipated that there will be a 2-year lead in period. There are several drivers who have already installed CCTV in their vehicle.

There would be costs associated with the Safeguarding and Disability Awareness training; these are in the region of £25 for each course. These costs would be charged to the driver.

Introduction of changes to vehicles specifications would result in increased financial burden to the Taxi and Private Hire trade.

Risk Management Implications

26. In accordance with the Council's Risk Management Strategy, consideration has been given to the potential risks associated with the recommendations set out in this report. Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority's practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority's defence.

Equality and customer service implications

27. The policy is intended to protect the public, including those who are vulnerable owing to their age or disability, and through our consultation with a range of stakeholders, including the police, we would seek to ensure we have got the balance right in this respect. Measures which improve safety and standards in the taxi and private hire trades would improve access to the service for customers from all groups and we will seek to ensure we have got the balance right in this respect. Details of stakeholders with whom we will consult are included in the draft policy.

Background Papers

Appendix 1 – Proposed Amendments

Appendix 2 – Summary of responses to public consultation

Appendix 3 – Detailed responses

Appendix 4 – Statutory Taxi and Private Hire Vehicle Standards

Proposed Taxi Licensing Policy Amendments

A. Duration of Driver and Operator Licence

The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and private hire vehicle drivers and five years for private hire vehicle operators. Any shorter duration licence should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, if a licensee has requested one or where required (e.g. when the licence holder's leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand; they should not be issued on a 'probationary' basis.

Proposed amendment to policy

All hackney carriage driver licences and private hire driver licences will be granted for 36 months from the date of issue. In cases where the licence holder is working under visa conditions attached to their passport the licence will only cover up to the expiry date on the visa. For first time applicants they will have the option to be licensed for one year or three years. This option is to allow new drivers a chance to decide whether the job is suitable for them.

Drivers may be granted a one-year licence when the licensing authority thinks that it is appropriate in the specific circumstances of the request.

B. Changes in Licensing Policy

Any changes in licensing requirements should be followed by a review of the licences already issued. If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle. If requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.

Proposed addition to policy

Any changes to the licensing requirements will be followed by a review of the licences currently issued. If requirements are changed regarding vehicle specification or licence holders will need to undertake additional training, then reasonable time will be allowed for these changes to take place.

Where a more subjective change has been introduced, for example an amended policy on previous convictions, the licensing authority will consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, the licensing authorities will consider doing so.

C. Disclosure Barring Service (DBS) Update Service

Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.

The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the type of information; for criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months.

Proposed addition to policy

All licensed drivers will be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months.

Should the check reveal that new information is available the DBS certificate will no longer be relied upon and a new DBS certificate will be requested.

D. Common Law Police Disclosure/Referrals to the Police/DBS

In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS/Police. A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS. The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role

Proposed amendment to policy

That licensing authority will make a referral to the DBS/Police when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the 'harm test'; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;

if the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

E. Licensee Self Reporting

Licence holders should be required to notify the issuing authority within **48** hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the

offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so.

This must not however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities.

A failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

Proposed amendment to Policy and Conditions

Existing holders of driver's licences are required to notify the licensing authority in writing within **48 hours** of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the licensing authority within **48 hours** of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the licensing authority as to the honesty of the licence holder and will be considered as part of any subsequent renewal applications or licence review.

F. Sharing Licensing Information

Obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. An obvious source of relevant information is any previous licensing history. Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority.

The Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.

Proposed amendment to Policy

All applicants are required to disclose if they have ever held a licence with any other Authority and additionally if they have ever had a licence refused, revoked or suspended by any other licensing authority. Where an applicant has made a false statement or a false declaration or omitted this information on their application for the grant or renewal of a licence, the licence will normally be refused. The Authority will check all new applicants against the National Revocation and Refusals Register.

G. Complaints Against Licensees

Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence.

Complaints regarding Private hire Drivers are generally made directly to their Operator rather than the Licensing Department

Proposed amendment to Policy

All Operators are required to keep a record of all complaints received. These records must be made available for inspection by the Licensing Officer on request.

Operators are required to advise the authority when any driver is subject to any complaints regarding safeguarding, dishonesty, abusing customers or more than one complaint which does not fall into these categories in any 12 months.

H. Overseas Applicants

The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK.

Proposed amendment to Policy

Where an applicant has lived in any Country outside the UK for more than 3 months over the age of 18 they will be required to provide, where possible, criminal records information or a 'Certificate of Good Character' from overseas for each and every Country that they have resided in. This is to be able to properly assess risk and support the decision-making process.

I. Fit and Proper Test

Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee.

Proposed Amendment to Policy

The test used by the Authority when considering whether a licence holder is a 'Fit and Proper' Person is:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence. All decisions on the suitability of an applicant or licensee will be made on the balance of probability.

This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and will take into consideration conduct that has not resulted in a criminal conviction.

J. Safeguarding Awareness Training

The taxi and private hire vehicle industry can play an important role in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

Proposed amendment to Policy

All new applicants, current licensed drivers, and Operators where they are not also licensed as drivers, will attend Safeguarding Awareness training by an approved provider. This training must be undertaken with 12 months of being licensed or if currently licensed within 12 months of the introduction of this policy. Failure or refusal to attend this training will result in the licence being suspended until the training is satisfactorily completed. Drivers and Operators who have previously already attended this training need not re-attend.

K. Criminality Checks on Vehicle Proprietors

As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

Proposed amendment to Policy

Where vehicle proprietors are not currently licensed drivers, they will be required to provide an annual basic disclosure certificate.

L. In-vehicle visual and audio recording – CCTV

There is a potential risk to both driver and public safety when passengers travel in taxis and private hire vehicles. CCTV can provide additional deterrence to lower the risk and has investigative value when an incident occurs. The use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

CCTV systems that are able to record audio as well as visual data may also help the early identification of drivers that exhibit inappropriate behaviour toward passengers. Audio recording should be both overt (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or drivers) consider it necessary). The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves.

Proposed Amendment to Policy

CCTV systems are to be installed in all licensed Hackney Carriage and Private Hire vehicles (other than Private Hire Vehicles issued with a plate exemption for executive and VIP work and are used solely for this purpose). The system must be approved by the Authority and be capable, when required, of audio recording. The Authority will become the Data Controller and will publish a Data Impact Statement and guidance to drivers. The CCTV system must be installed in vehicles by 1st October 2022.

M. Stretched Limousines

The Authority is sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as private hire vehicles, these vehicles may be used for transport to 'school proms' as well as for adult bookings. They are not currently licensed and as such may create an unacceptable risk to the travelling public, as it may lead to higher levels of unsupervised operation.

Proposed Amendment to Policy

Stretch Limousines or similar vehicles which can carry less than 9 passengers used for transport to school proms or for adult bookings will be required to be licensed by the Authority. The driver and operator must hold the relevant private hire licences

N. Criminality checks for Private Hire Vehicle Operators

Currently Private Hire Operators who are not also licensed drivers are required to provide a basic DBS Disclosure certificate every 3 years. The Authority will require this check to be completed annually.

Additionally, Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff. There is a person taking bookings (be it by phone or in person), the vehicle dispatcher who decides which driver to send to a user. These are positions that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults. The Authority should therefore be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public.

Proposed Amendment to Policy

Operators will be required as a condition of granting an operator licence, to keep a register of all staff that will take bookings or dispatch vehicles. Operators will be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. Operators will have to provide their policy on employing ex-offenders in either of these roles.

O. Operator Records

The licence conditions will be amended to ensure that more detailed information is taken in respect of each booking. This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement.

Proposed Amendment to Policy

The Operator will be required to record the following information for each booking

- the name of the passenger;
- contact telephone number of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle dispatched;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.

P. Use of PCV Licensed Drivers

PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver.

Proposed Amendment to Policy

The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a private hire vehicle booking should not be

permitted by private hire vehicle operator without the informed consent of the person making the booking.

Q. Assessment of Previous Conditions

The current convictions policy does not specifically cover Exploitation Offences or offences around discrimination.

Proposed Amendment to Policy

Exploitation

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

R. Intended Use Policy for Hackney Vehicles

The nature of the Licensing Regime is that drivers and vehicles are licensed locally. When vehicles work remotely away from their Licensing District it causes issues regarding ensuring vehicle and driver compliance and can compromise public safety. Mid Sussex has a cap on the number of Hackney Vehicle Licences that it currently issues. Each Taxi that works remotely away from the district is one less vehicle for the public of Mid Sussex to be able to use. There have been complaints regarding vehicles working regularly in other Districts.

Proposed Amendment to Policy

A condition to be added to Hackney Vehicle Licences, that on renewal the vehicle proprietor will be asked two questions

- 1) Do you intend that the hackney carriage will be used to ply for hire within the area of Mid Sussex District Council?
- 2) Do you intend that the hackney carriage will be used entirely or predominantly for private hire outside the area of Mid Sussex District Council?

In order to obtain a licence, the answer to 1) will be yes and the answer to 2) will be no. If the vehicle is found to be operating in contravention to these replies, then consideration would be given to revoking the vehicle licence.

S. Written Off Vehicles

There are a number of categories for vehicles that have been classed as being written off. These range from vehicles that cannot be repaired to vehicles which could potentially be repaired to a roadworthy condition. However, there are difficulties in establishing that any repairs have been completed to a professional standard.

Proposed Amendment to Policy

The Authority will not license any vehicle that has been classed a 'write off' in any category.

T. Vaping

Proposed Amendment to Policy

The current condition regarding no smoking in licensed vehicles will be amended to include vaping.

U. Card Payments

A number of drivers now take card payments, however there have been reports that arbitrary limits have been placed on their acceptance. For example, a card payment will not be accepted for journeys that are under £10. This has led to instances of shorter journey being refused by drivers which can cause an unacceptable risk to the public especially late at night.

Proposed Amendment to Policy

A condition will be added to Vehicle Licences that when credit/debit cards are accepted as payment by a driver they cannot set a minimum card payment amount.

V. Wheelchair Accessible Vehicle Licence

There have been issues where Wheelchair Accessible Vehicles have not had the appropriate equipment available to transport wheelchair passengers.

Proposed Amendment

A condition will be added to specify that Wheelchair accessible vehicles must always have the appropriate equipment to carry wheelchair customers available and in working condition otherwise the vehicle licence will be immediately suspended.

W. Private Hire Door Signs

From the 1st October 2022 Hackney vehicles will have to display door signs with the Mid Sussex Logo and licence number. To provide consistency across the licensed fleet to apply the same requirement for Private Hire vehicles. It would also provide

extra visibility and reassurance to the travelling public that they are getting into a locally licensed vehicle

Proposed Amendment

From 1st October 2022 Private Hire Vehicles rear doors must display the MSDC logo, with the words “Private Hire Vehicle, Advanced Booking Only” and the licence number.

X. Licensed Vehicle Emissions

There is a drive towards reducing vehicle emissions and although the licensed trade only forms a small proportion of the current vehicle traffic, they do travel a large number of miles each year.

The aim of Euro emissions standards is to reduce the levels of harmful exhaust emissions, chiefly:

- Nitrogen oxides (NO_x)
- Carbon monoxide (CO)
- Hydrocarbons (HC)
- Particulate matter (PM)

These standards are having a positive effect, with the SMMT (Society of Motor Manufacturers and Traders), claiming: “It would take 50 new cars today to produce the same amount of pollutant emissions as one vehicle built in the 1970s.”

Because petrol and diesel engines produce different types of emissions they are subject to different standards. Diesel, for example, produces more particulate matter – or soot – leading to the introduction of diesel particulate filters (DPFs).

The EU has pointed out, however, that NO_x emissions from road transport “have not been reduced as much as expected...because emissions in ‘real-world’ driving conditions are often higher than those measured during the approval test (in particular for diesel vehicles)”.

The current Euro Standard for diesel vehicle emissions is Euro 6.

Proposed Amendment

From 1st October 2022 all licensed diesel vehicles must be compliant with Euro 6 emissions standard and petrol vehicles with the Euro 4 standard.

Y. Mandatory Disability Awareness Training

Private Hire and Hackney Carriage drivers frequently encounter passengers with various disabilities, and it is therefore considered necessary that all drivers are aware of the needs of disabled passengers. Disability awareness training benefits both the customer and driver and the Council should make it a pre-condition for being granted a driver’s licence.

The Equality Act 2010 focused on the needs of people with protected characteristics, which includes disabilities. Public bodies, including local authorities, have a lawful duty of regard to: eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not.

The Department for Transport's Draft Accessibility Action Plan described refusals of assistance dogs by taxi and PHV drivers as "unacceptable and illegal", noting the serious impact of refusals on people's confidence and ability to live independently. The plan commits the UK Government to publish best practice guidance for licensing authorities, recommending that disability equality training be mandated in their licensing policies.

Proposed Amendment

All new applicants and current licensed drivers are required to undertake recognised Disability Awareness and Equality Act training in relation to disabled and vulnerable passengers as part of their professional development. The Training will be organised by MSDC and delivered through a provider of their choice. This is to ensure that all drivers operate to a consistent standard and can provide a safe and suitable level of transport service to disabled and vulnerable passengers.

Disability awareness training for all new drivers must be undertaken within 12 months from the date of issue of the licence.

Existing MSDC licensed drivers that have not previously undergone recognised Disability awareness training must attend a session within 12 months from implementation of this revised policy.

Failure to attend this training during the timescales outlined above will result in the licence being suspended until the training has been successfully attended.

A total of 20 responses were received from various parties. The responses are summarised below.

1. Turners Hill Parish Council fully supported the proposed amendments
2. The Police were fully supportive of the changes especially in respect of amendments **(H) Overseas Applicants, (I) Fit and Proper test, (J) Safeguarding Awareness Training, and (K) Criminality Checks on Vehicle Proprietors,**
3. WSCC Safeguarding Team were supportive and very keen mandatory safeguarding training taxi drivers to also include training on wider criminal exploitation to include County Lines and Modern Slavery not just CSEA.
4. Guide Dogs sent a comprehensive response to these areas and were supportive of the measures proposed. They did suggest that some areas could potentially be tightened such as ensuring Safeguarding and Disability awareness training is completed in a shorter period than 12 months. I have attached their full consultation reply.
5. Disability Access East Grinstead responded to amendments **(V) Wheelchair Accessible Vehicles and (Y) Mandatory Disability Awareness Training.** They have additionally suggested mandatory minimum standards for wheelchair accessible vehicles. The mandatory requirement for Disability Awareness Training was supported. They suggested that the training includes physical disability, visual impairment and deafness.
6. The Brighton Representative of the GMB Union responded in relation to amendment **(R) Intended Use Policy.** He confirmed that the GMB Union National Organising Committee (Professional Drivers Branch) which now supports the policy for an 'Intended Use Policy' for both hackney carriages and private hire vehicles to try and tackle the abuse of Cross Border Hiring which has diminished local licensing control. I have also attached the draft GMB Policy regarding this for information.

All the other responses were from licensed drivers or private hire operators. Most of the drivers were solely opposed to the implementation of **(X) Licensed Vehicle Emissions.** I have detailed these first.

7. Driver A commented "*while it is absolutely right that we should align with the directives of The European Emissions Standards (currently Euro 6), these directives are upgraded approximately every five years. My hope is that this requirement would only apply to vehicles purchased for use as taxis from 1st October 2022 and not to vehicles purchased in good faith with the current ten year lifespan in mind prior to this date.*"
8. Driver B commented "*I am in agreement with the majority of the drivers in saying that due to current circumstances (pandemic) the new by laws regarding the emissions is not fair I have also purchased a new vehicle on finance which if this was to come into force would leave me unable to work to support my family. Please take this into consideration*"
9. Driver C commented "*Just want to raise my point last whole year of lost because of Covid as my self lots of other driver couldn't work please delays the implementation of new rule regarding euro car / white etc by a year as financially weak wouldn't able to afford 2016 or above car please consider my request*"

10. Driver D commented, *“In regards to drivers having to buy euro 6 cars in 2022, I would like to say that I just recently bought a white car this year and it’s not possible for me to buy another car in a years time. Can that rule be looked at again please.”*
11. Driver E commented *“Does this mean I will have to change my car again?”*
12. Driver F asked if a petition by drivers against the Euro 6 requirement would be permitted by the Council

Other drivers commented on both the Licensed Vehicle emissions together with other proposals

13. Driver G commented, *‘Regarding euro 6 complaint vehicles from 2022, white cars and CCTV installed and safeguarding by our own expense. This proposal is so unhelpful to our business trade that most or if all drivers won’t be able to cover this expense due to covid 19 as business has got even worse, even without covid 19 this is a huge expense that drivers like I won’t be able to afford. Most drivers have already bought new cars and they can’t afford to replace it with white and euro 6 compliant. Most drivers like I that have bought non white taxi is due to that it’s very hard to buy white cars that is in your range and spec that we want.*

Euro 6 vehicles that has been proposed must drivers weren’t aware of this before buying the new car and this isn’t fare as this is a huge amount of money that we are talking about especially in this situation that we are in due to covid 19. We are trying to make a living but business is so bad that we are falling in to debt just to cover the expenses.

I think like all businesses Safeguarding should be provided by that taxi council so will help drivers safe guard customers and children as with working for other companies outside taxi trade they would of provided the same.

CCTV I think should be optional for insurance purposes for those who can afford this, this is still an expense that is quite hard to manage due to the current situation.

These expenses that are proposed in this current situation isn’t right as we are trying to work and make a living and putting this in place is going to make it worse that could like I may drive people out if this trade.

Please help us and I as taxi business trade to withdraw these expenses in this current situation that the world has come to so we as drivers can stay afloat and try to move on by clearing my debts that we’ve incurred from car loans to other financial difficulties.

I and other drivers in this trade that have been trading for long time have seen a very big drop in trade and putting extra expenses won’t help drivers like I to be in business, we should all help each other out to stay in business this will help everyone including MSDC to stay in business with revenue as well

Please consider my and other request that other drivers may email regarding this proposal this will be a great help for all drivers including me.”

14. Driver H made comments regarding most of the proposed areas. Rather than detail all of them I have attached his response to the consultation to this document. However, in respect of Licensed Vehicle Emissions he commented

“This Is Going to be the Biggest Bug Bear for Drivers / Owners and will cause a Hugh Strain on already Stretched Purse Strings. I myself will have to change my car next year anyway as it has fallen into the Current 10 Year Bracket. That is of course if I am still doing this by then? As you know yourself since the first recession struck our

*livelihood has dwindled in ever increasing circles making a living is harder and harder. With costs rising all the time and earnings falling. Drivers are spending longer hours trying to earn the same levels of income that they earned in earlier years! I believe that these new Euro Emissions equate to cars and van registered from 2016 onwards? As you know this will force Drivers to Change Vehicles a lot earlier than they planned for. If they have a car registered between 2012 & 2016 regardless of the current 10 Year ruling in place! This one Ruling from the Council could Force Drivers to leave this Trade in Doves, overnight in fact. Less than 2 years notice is **NOT ENOUGH TIME!** I would Strongly Recommend that this is delayed for **at Least a Further 2 Years** to try and get some semblance back into this Trade. This trade has suffered immensely especially with Covid-19. We rely on People travelling from A to Z and everywhere in between that is not happening in today's World. Business as well as Leisure travel has dwindled to virtually nothing. People have changed their work schedules with many mainly working from home and that wont change anytime soon. As, well as people doing more shopping online and consequently less customers travelling around the District. Which has a direct effect on the Trade!"*

15. Driver I made comments in respect of **(X) Licensed Vehicle Emissions (J) Safeguarding Training (Y) Disability Awareness) and L (Installation of CCTV)**. In summary he stated:

"The proposals have the potential to place a serious financial burden on the trade at a time when business is roughly 70% down pre-Covid. Many drivers, especially jockeys, have given up others especially HAC driver /owners, are supplementing their reduced income by Universal Credit payment and loan holidays on their vehicle finance. These proposals, if implemented would not improve the service MSDC is seeking and most probably would lead to a further reduction in the number of vehicles available to the public.

Overall I agree with the intentions of the proposals but query the time frame and question if any thought has been given to the cost to the trade as a whole and the effect on peoples livelihoods."

16. Driver J made comments in respect of **(R) Intended Use Policy for Hackney Vehicles**

"I hear on the grapevine, that this has been prompted by some of our locally licensed drivers seeking work elsewhere, due to the shortage of fares in our area caused by the Coronavirus situation. If this is the case, whilst I would not condone their behaviour, I can totally understand why it may be happening. Some of our drivers have big fixed expenses which need to be paid. "Desperate times call for desperate means" as they say."

17. Driver K made comments regarding CCTV and additional costs that would be incurred

Regarding the installation of cctv, it needs to be taken into account the fact that the car is being used privately with the family members too. The privacy of the driver and his or her family should be looked at.

At this time with the pandemic and loss of earnings, without the clarity of when we will be getting back to normality, could you please look into delaying any proposals which would incur extra costs for the driver. We have an uncertain future.

Other comments received were:

18. Operator A welcomed the proposals but questioned the need for CCTV in plate exempt vehicles
19. Operator B asked for clarification on door signage for Private Hire Vehicles and the proposed reporting of complaints to the Licensing Team
20. Operator C made comments in several areas. In respect of **(J) Safeguarding Awareness Training**, they asked if the training could be online, in respect of **(O) Operator records**, will result in too much and extraneous administrative work for operators and **(S) Written Off Vehicles** stated *written off vehicles should be requested to obtain a new MOT and/or a taxi fitness test right after their repairs, regardless of the original expiry period of those documents, and only if they pass this test(s) they should be allowed back on the road.*



Guide Dogs Response to Mid Sussex Proposed Taxi Licensing Policy Amendments - October 2020

About Guide Dogs

Guide Dogs provides mobility services to increase the independence of people with sight loss in the UK. Alongside our mobility work, we campaign to break down physical and legal barriers to enable people with sight loss to get around on their own terms.

Introduction

There are around 35,400 people living with sight loss in West Sussexⁱ, many of whom are reliant on taxis and private hire vehicles (PHVs) and the door to door service they provide in order to be mobile and independent. Taxis and PHVs are essential for disabled people, particularly those who are blind and partially sighted as they are unable to drive and often face significant barriers when using public transport.

However, accessing taxis and PHVs can be a major challenge for assistance dog owners: [a 2019 Guide Dogs survey](#) found that 73% of assistance dog owners who have experienced an access refusal were refused by a taxi or PHV driver in a one-year period - despite this being a criminal offence under the Equality Act 2010. Such access refusals can have a significant impact on assistance dog owners' lives, leading to feelings of anger and embarrassment and a loss of confidence and independence. As guide dog owners report:

- “Each refusal is crushing, confidence shattering, rejecting, and traumatic. I always feel that I don't want to go out after - but work dictates I must.” Guide dog owner, Stevenage
- “I was left on my own at the side of the road in the dark. I am deaf and unable to phone for help and it made me feel very vulnerable. It makes me feel afraid to go out.” Assistance dog owner

- “I was very upset, it was dark, raining and 10pm at night. I was scared. I avoid evening invites, as I worry about getting home. I lose out on the chance of socialising with friends, which is bad, as I have no family.” Guide dog owner, Rochester
- “I used to have a very tough two-hour commute to work. The taxi part of the journey was the shortest bit travel wise, but it always ended up being the bit that held me up the most because I was having to spend time facing drivers who wouldn’t take me with my dog. ... It’s good that my contract was flexi hours otherwise I’m sure I would have been sacked for being late all the time - it happened so often.” Guide dog owner, Daventry

Guide Dogs Response

We have only included the proposed amendments below for which we had responses.

2. Changes in Licensing Policy

Any changes in licensing requirements should be followed by a review of the licences already issued. If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle. If requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.

Proposed addition to policy

Any changes to the licensing requirements will be followed by a review of the licences currently issued. If requirements are changed regarding vehicle specification or licence holders will need to undertake additional training, then reasonable time will be allowed for these changes to take place.

Where a more subjective change has been introduced, for example an amended policy on previous convictions, the licensing authority will consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, the licensing authorities will consider doing so.

Guide Dogs response

We feel this is a fair approach for the council to take. For example, the council's proposal to introduce mandatory disability awareness training would be a requirement for existing and future licence holders under this proposal.

3. Disclosure Barring Service (DBS) Update Service

Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.

The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the type of information; for criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months.

Proposed addition to policy

All licensed drivers will be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months.

Should the check reveal that new information is available the DBS certificate will no longer be relied upon and a new DBS certificate will be requested.

Guide Dogs response

We welcome any amendments to this policy that will allow the council to take further steps in ensuring the safety of passengers.

4. Common Law Police Disclosure/Referrals to the Police/DBS

In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS/Police. A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS. The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role

Proposed amendment to policy

That licensing authority will make a referral to the DBS/Police when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the ‘harm test’; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;

if the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

Guide Dogs response

We would like to echo our response to the previous proposed amendment. We welcome any amendments to this policy that will allow the council to take further steps in ensuring the safety of passengers, including children and vulnerable adults

5. Licensee Self Reporting

Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope

should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so.

This must not however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities.

A failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

Proposed amendment to Policy and Conditions

Existing holders of driver's licences are required to notify the licensing authority in writing within 48 hours of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the licensing authority within 48 hours of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the licensing authority as to the honesty of the licence holder and will be considered as part of any subsequent renewal applications or licence review.

Guide Dogs response

We welcome the above proposed amendment

6. Sharing Licensing Information

Obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. An obvious source of relevant information is any previous licensing history. Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority.

The Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.

Proposed amendment to Policy

All applicants are required to disclose if they have ever held a licence with any other Authority and additionally if they have ever had a licence refused, revoked or suspended by any other licencing authority. Where an applicant has made a false statement or a false declaration or omitted this information on their application for the grant or renewal of a licence, the licence will normally be refused. The Authority will check all new applicants against the National Revocation and Refusals Register.

Guide Dogs response

We feel this is an important proposed amendment to ensure that those applying for a license have not been barred from holding a license in another location. For example, if a driver has had their licence revoked for refusing to accept an assistance dog when travelling with their owner.

7. Complaints Against Licensees

Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence.

Complaints regarding Private hire Drivers are generally made directly to their Operator rather than the Licensing Department

Proposed amendment to Policy

All Operators are required to keep a record of all complaints received. These records must be made available for inspection by the Licensing Officer on request.

Operators are required to advise the authority when any driver is subject to any complaints regarding safeguarding, dishonesty, abusing customers or more than one complaint which does not fall into these categories in any 12 months.

Guide Dogs response

We welcome this proposed amendment to the policy. We know that it is not uncommon for blind and partially sighted people, including guide dog owners, to make a complaint to an operator and not the licensing authority. This can be for many reasons including; poor assistance by drivers, refusal to transport an assistance dog with their owner, poor attitude by the driver when they have reluctantly agreed to transport an assistant dog but have obviously not been happy about doing so. An example of this was where a guide dog owner was made to travel in a taxi with all the windows open in February, at the insistence of the driver. We feel that any process that will enable the licensing authority to have greater monitoring measures are likely to reduce the risk of poor customer service.

8 Overseas Applicants

The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK.

Proposed amendment to Policy

Where an applicant has lived in any Country outside the UK for more than 3 months over the age of 18 they will be required to provide where possible criminal records information or a 'Certificate of Good Character' from overseas for each and every Country that they have resided in. This is to be able to properly assess risk and support the decision-making process.

Guide Dogs response

We welcome any amendments to the policy that will help to ensure all passengers, including blind and partially sighted people, are safe from harm.

9 Fit and Proper Test

Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee.

Proposed Amendment to Policy

The test used by the Authority when considering whether a licence holder is a 'Fit and Proper' Person is:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence. All decisions on the suitability of an applicant or licensee will be made on the balance of probability.

This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and will take into consideration conduct that has not resulted in a criminal conviction.

Guide Dogs comment

We welcome this proposed amendment to the 'Fit and Proper' test

10 Safeguarding Awareness Training

The taxi and private hire vehicle industry can play an important role in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

Proposed amendment to Policy

All new applicants, current licensed drivers, and Operators where they are not also licensed as drivers, will attend Safeguarding Awareness training by an approved provider. This training must be undertaken within 12 months of being licensed or if currently licensed within 12 months of the introduction of this policy. Failure or refusal to attend this training will result in the licence being suspended until the training is satisfactorily completed. Drivers and Operators who have previously already attended this training need not re-attend.

Guide Dogs comments

This proposed amendment is one that we strongly support. However, we would like the council to consider reducing the period in which the training must be completed from 12 months. We feel this important training should be given priority and completed within a shorter period if possible.

11 Criminology Checks on Vehicle Proprietors

As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

Proposed amendment to Policy

Where vehicle proprietors are not currently licensed drivers they will be required to provide an annual basic disclosure certificate.

Guide Dogs comments

We welcome any amendment that will increase passenger safety.

12 In-vehicle visual and audio recording - CCTV

There is a potential risk to both driver and public safety when passengers travel in taxis and private hire vehicles. CCTV can provide additional deterrence to lower the risk and has investigative value when an incident occurs. The use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

CCTV systems that are able to record audio as well as visual data may also help the early identification of drivers that exhibit inappropriate behaviour toward passengers. Audio recording should be both overt (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or drivers) consider it necessary). The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves.

Proposed Amendment to Policy

CCTV systems are to be installed in all licensed Hackney Carriage and Private Hire vehicles (other than Private Hire Vehicles issued with a plate exemption for executive and VIP work and are used solely for this purpose). The system must be approved by the Authority and be capable when required of audio recording. The Authority will become the Data Controller and will publish a Data Impact Statement and guidance to drivers. The CCTV system must be installed in vehicles by 1st October 2022.

Guide Dogs comments

We are of the view that CCTV has great benefits in protecting both drivers and passengers from harm, inappropriate behaviour, abuse and poor customer service. This amendment would help to resolve disputes by providing important evidence. For example, if an assistance dog owner makes an allegation of being refused carriage by

a driver, due to the person travelling with an assistance dog. As part of the proposed disability equality training, we would ask that drivers are reminded to make blind and partially sighted passengers aware that CCTV is in operation as they are unlikely to see signs notifying them of this. We are unsure why this proposed amendment is not being extended to include Private Hire Vehicles issued with a plate exemption for executive and VIP work and are used solely for this purpose

14 Criminology checks for Private Hire Vehicle Operators

Currently Private Hire Operators who are not also licensed drivers are required to provide a basic DBS Disclosure certificate every 3 years. The Authority will require this check to be completed annually.

Additionally, Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff. There is a person taking bookings (be it by phone or in person), the vehicle dispatcher who decides which driver to send to a user. These are positions that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults and the Authority should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public.

Proposed Amendment to Policy

Operators will be required as a condition of granting an operator licence, to keep a register of all staff that will take bookings or dispatch vehicles. Operators will be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. Operators will have to provide their policy on employing ex-offenders in either of these roles.

Guide Dogs comments

We welcome this proposed amendment. We would suggest that this policy change is replicated in the proposed amendments to the policy relating to safeguarding and disability equality training so that other taxi operator staff (bookers/dispatchers) are required to complete both important training sessions. We would like the council to consider reducing the period in which the training must be completed from 12 months. We feel this important training should be given priority and completed within a shorter period if possible. We have taken the liberty to include our guidance document for taxi drivers which we would recommend be provided to drivers and other taxi operator staff when completing their Disability Awareness training 'Access to Taxis for Guide Dog Owners' (Attached to our email with response).

15 Operator Records

The licence conditions will be amended to ensure that more detailed information is taken in respect of each booking. This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement.

Proposed Amendment to Policy

The Operator will be required to record the following information for each booking

- the name of the passenger;
- contact telephone number of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle dispatched;
- the name of any individual that responded to the booking request;

- the name of any individual that dispatched the vehicle.

Guide Dogs comments

We welcome the above proposed amendment.

16 Use of PCV Licensed Drivers

PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver.

Proposed Amendment to Policy

The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a private hire vehicle booking should not be permitted by private hire vehicle operator without the informed consent of the person making the booking.

Guide Dogs comment

We have heard from guide dog owners that some taxi operators have dispatched a minibus because the person is travelling with their guide dog and have charged extra for this. We welcome this proposed policy amendment as we strongly feel that assistance dog owners should not be penalized for travelling with their assistance dog. This should be about choice.

17 Assessment of Previous Conditions

The current convictions policy does not specifically cover Exploitation Offences or offences around discrimination.

Proposed Amendment to Policy

Exploitation

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or

victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Guide Dogs comments

We welcome this proposed amendment to the policy

21 Card Payments

A number of drivers now take card payments however there have been reports that arbitrary limits have been placed on their acceptance. For example, a card payment will not be accepted for journeys that are under £10. This has led to instances of shorter journey being refused by drivers which can cause an unacceptable risk to the public especially late at night.

Proposed Amendment to Policy

A condition will be added to Vehicle Licences that when credit/debit cards are accepted as payment by a driver they cannot set a minimum card payment amount.

Guide Dogs comments

It is often the case that blind and partially sighted passengers will only be travelling a short distance (fee under £10) therefore we feel this proposed amendment is fair.

22 Wheelchair Accessible Vehicle Licence

There have been issues where Wheelchair Accessible Vehicles have not had the appropriate equipment available to transport wheelchair passengers.

Proposed Amendment

A condition will be added to specify that Wheelchair accessible vehicles must always have the appropriate equipment to carry wheelchair

customers available and in working condition otherwise the vehicle licence will be immediately suspended.

Guide Dogs comments

We strongly support this proposed amendment.

23 Private Hire Door Signs

From the 1st October 2022 Hackney vehicles will have to display door signs with the Mid Sussex Logo and licence number. To provide consistency across the licensed fleet to apply the same requirement for Private Hire vehicles. It would also provide extra visibility and reassurance to the travelling public that they are getting into a locally licensed vehicle

Proposed Amendment

From 1st October 2022 Private Hire Vehicles front doors must display the MSDC logo, with the words “Private Hire Vehicle, Advanced Booking Only” and the licence number.

Guide Dogs comments

For many people with limited vision, having ways to identify taxis more easily will be of great benefit. We would ask that the design of the door signs have clear and large text (Not all in capitals) and the text colour has a good contrast to the background colour of the sign.

25 Mandatory Disability Awareness Training

Private Hire and Hackney Carriage drivers frequently encounter passengers with various disabilities and it is therefore considered necessary that all drivers are aware of the needs of disabled passengers. Disability awareness training benefits both the customer and driver and the Council should make it a pre-condition for being granted a driver’s licence.

The Equality Act 2010 focused on the needs of people with protected characteristics, which includes disabilities. Public bodies, including local authorities, have a lawful duty of regard to: eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity between people who share a protected characteristic and

those who do not; and foster good relations between people who share a protected characteristic and those who do not.

The Department for Transport's Draft Accessibility Action Plan described refusals of assistance dogs by taxi and PHV drivers as "unacceptable and illegal", noting the serious impact of refusals on people's confidence and ability to live independently. The plan commits the UK Government to publish best practice guidance for licensing authorities, recommending that disability equality training be mandated in their licensing policies.

Proposed Amendment

All new applicants and current licensed drivers are required to undertake recognised Disability Awareness and Equality Act training in relation to disabled and vulnerable passengers as part of their professional development. The Training will be organised by MSDC and delivered through a provider of their choice. This is to ensure that all drivers operate to a consistent standard and can provide a safe and suitable level of transport service to disabled and vulnerable passengers.

Disability awareness training for all new drivers must be undertaken within 12 months from the date of issue of the licence.

Existing MSDC licensed drivers that have not previously undergone recognised Disability awareness training must attend a session within 12 months from implementation of this revised policy.

Failure to attend this training during the timescales outlined above will result in the licence being suspended until the training has been successfully attended.

Guide Dogs comments

As I am sure you can predict, we fully support this proposed amendment. Guide Dogs has been calling on mandatory Disability Equality/Awareness training for all existing taxi license holders and those applying for a taxi license. We strongly believe that effective training of this type increases the understanding of the needs of passengers with disabilities, including blind and partially sighted people

and assistance dog owners. We would ask that the council ensures that any training provider includes sight loss awareness, including a section on the law and how it relates to the carriage of assistance dogs when travelling with their owners. As mentioned in previously in this response, we would encourage the council to require all taxi operator staff to complete this training.

Conclusion

Thank you for giving Guide Dogs the opportunity to respond to Mid Sussex Council's consultation on proposed amendments to their taxi licensing policy.

For any points of clarification in our responses or any other queries please contact

Clive Wood

Regional Policy and campaigns Manager

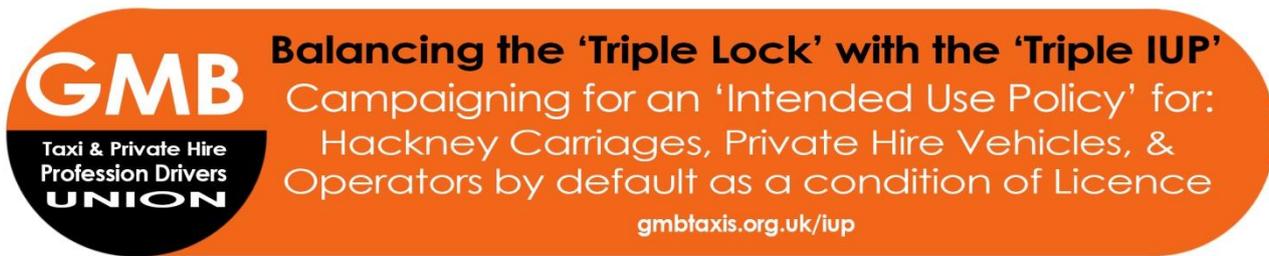
Guide Dogs

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ⁱ <https://www.rnib.org.uk/professionals/knowledge-and-research-hub/key-information-and-statistics/sight-loss-data-tool>

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1: Introduction – 2015 Deregulation Act – Where it all went wrong

There is no intention here to bring up this old dust ball in fine detail. However it is abundantly clear that the changes to the taxi/private hire trade which may have been supported by MP's and those in power such as Baroness Kramer in good faith.. *or even possibly knowing the full and eventual outcome...* turned out to be a case of utter turmoil and strife to the trade and Local Licensing Authorities.

Putting aside the changes to the period of driver licenses issued from one year to three years and concentrating on the 'Triple Lock' the 'supposed' original intention was to lay down the conditions of where a licensed Operator passes a job to another licensed Operator thus ensuring the 'Triple Lock' was in place (*meaning where all three Licences from the same licensing authority must be in place for a private hire booking to be legal. These being the Driver... Vehicle and Operator Licence.*)

That was nice and simple in its basic terms as an Operator in 'Area A' taking a job in 'Area B' could then be confident that the whole process was legal when sub-contracting that job to the Operator in 'Area B' that used drivers and vehicles licensed in 'Area B' thus complying with the 'Triple Lock'.

It was not supposed to encourage the Operator in 'Area A' to intently place cars licensed in 'Area A' to predominantly work Area 'B' with the effect of eroding Local Licensing Control in 'Area B'.

However... this is what happened and was then fully exploited to the extreme by Uber that in the very early days it then initially sent thousands of London licensed TfL private hire cars all over the country and then once a job was allocated it was 'backfill-recorded' to the London Uber Operator licence.

Some claim that the actual process of the job '**First**' being allocated to whichever Uber car (*from whatever area*) that happens to be closest to the customer and only then '**Secondly**' backfilled-recorded to the appropriate Uber Operator licence to match up the driver and car was an illegal process.

For example a Wolverhampton driver/vehicle predominantly working in say Liverpool is matched up to a customer waiting outside 'The Cavern Club'. Once this '**First**' stage is completed the job is then backfilled-recorded to the Uber Wolverhampton Operator licence. However this of course has never been proved to be the case... or maybe the powers that be preferred not to go there.

Baroness Kramer and those who supported the all of this must be very proud of their work.....

This snowballed into Uber using the likes of Wolverhampton's mass confetti style issuing of private hire driver and vehicle licences (15k+ to date) where hardly any of these drivers had any intention of working within Wolverhampton but instead intently and predominantly outside of the city with the consequences of the total loss of Local Licensing Control for neighbouring licensing areas and much further way. *More on this further down.*

One terrible loss of this part of the Deregulation Act 2015 is that it took away the 'watchful-eyes' of the local cab trade who were previously easily alerted to bogus cabs roaming the streets with dubious intent. This is because many areas are now flooded with so many different private hire cars from so many different areas that it is now like going back to before the Local Government Miscellaneous Act 1976 where the then private hire drivers/vehicles could work wherever and however they wanted because they were unlicensed.

2: Cross- Border Hiring – Background

Now that the 2018 '**Task and Finish Group – Taxis and Private Hire Vehicle Licensing**' recommendations on the major abuse of cross-border hiring has been ignored by the government and excluded from the 2020 DfT '**Taxi & Private Hire Statutory Standards**' the GMB is now backing for a change in legislation to balance the 'Triple Lock' system.

It has been widespread in the taxi/private hire trade throughout the country that the 'Triple Lock' has been highly abused and a major cause of the erosion of Local Licensing Control and a diminishment of Local Enforcement rendering it pointless.

The intention is to require all local authorities to be compelled to set a condition of licensing for all three core licenses being: Hackney Carriage Vehicles, Private Hire Vehicles and Private Hire Operators which will be known as the '**Triple Intended Use Policy**' (**Triple IUP**).

This will compel Local Licensing Authorities to have in place a signed for declaration for the proprietor for both the hackney carriage and private hire vehicle Licence applications that the vehicle will not be predominantly used and placed outside of the licensing area for the intention of being hired. Any vehicle used in such a way risks the revocation of the Licence.

For the Operator Licence a declaration will be in place that it will not purposely... intently and predominantly place vehicles under its control in an area where its vehicles are not licensed for the purpose of being hired.

There is no intention to stop natural transit hirings across differing Licensing Authorities commonly known as 'Cross-Border Hiring'.

3: Intended Use Policy for the two vehicle Licences - Explained

- a) **Licensed Vehicles:** To stop the loophole of a hackney carriage/private hire vehicle that has been licensed in area '**A**' (*with specific and relevant licensing conditions to its own area*) with the intent of purposely and predominantly being used in a completely different area of '**Z**' (*that has its own specific and relevant licensing conditions*) for the purpose of being hired out of sight and mind of its respective Licensing Enforcement and known as 'Predominant Out of Area Hiring'
- b) **Operators:** To stop the loophole of a licensed Operator licensed in area '**A**' intentionally placing a hackney carriage/private hire vehicle licensed in area '**A**' to predominantly work in area '**Z**' for the purpose of being hired known as 'Predominant Out of Area Hiring'
- c) **Cross-Border Hiring:** It is not the intention to hinder the natural transit of Cross-Border Hiring but to ensure that licensed vehicles do not predominantly work out of area for the purpose of being hired away from their respective Licensing Enforcement.
- d) **Local Licensing Enforcement:** The 'Triple IUP' will alleviate time in work hours and licensing funding on 'Predominant Out of Area Hiring' investigations. This works both ways for Local Licensing Authorities who will see for its Enforcement officers:
 - 1: The reduced need to travel to far away areas to check on their respective licensed vehicles that under the current system allows those vehicles to predominantly work remotely out-of-sight and away from their own Local Enforcement.
 - 2: To allow the full concentration on locally licensed hackney carriage/private hire vehicles/drivers and Operator Enforcement.
- e) **Public Safety:** Currently where a vehicle predominantly works in a differing Licensing Authority area the Local Enforcement as no idea as to whether the vehicle:
 - 1: Complies with its own specific and relevant licensing conditions.
 - 2: That the driver of the vehicle is a genuine licensed driver.
 - 3: That the vehicle is fully insured to predominantly work outside its respective licensing area
(see Section 15 Insurance Fraud)

4: Intended Use Policy Operator Licence - Explained

The third Licence to apply an 'Intended Use Policy' is on the Operator Licence as in principle it is the Operator that controls the use of a private hire vehicle (as well in some cases hackney carriage vehicles) and a local council can enforce any reasonable condition of licensing on an 'Operators Licence'

Under what its known as the '**Triple Lock**' system, all three licenses; the driver Licence, the vehicle Licence and the Operator Licence must be held and issued by the same authority. This allows for 'Cross-Border Hiring' to take place. This 'Triple Lock' legitimised what has always taken place under natural transit hiring, especially within neighbouring areas

However the mass abuse of 'Cross-Border Hiring' by an Operator encouraging vehicles to be licensed in one area and yet predominantly work hundreds of miles away has completely eroded 'Local Licensing Control' and infinitely more worryingly, "Public Safety". This is a very serious point that the DfT and Grant Shapps Secretary for State Transport has ignored in the recently published 'DfT Statutory Taxi & Private Hire Standards'

The DfT has now imposed six monthly enhanced DBS checks but where the vehicle works many miles away in different areas... even daily enhanced DSB checks are worthless as who is to know if the driver is the actual licensed driver of that vehicle?

The gain of 'Cross- Border Hiring' expressed by Uber has always been articulated as being in the public interest and quite astonishingly declared along the lines of being economical for a driver to be able to take a customer down to one area in the country and be able to pick up for a job to go back.

If only this was true because if it were, then we would not be seeing the massive amount of drivers getting licensed in one area with the sole intention of intently and predominantly working in a completely different area and never leaving!

Where is Uber now? Well at the time of writing it appears that it is intending to remodel itself into being an Aggregator instead of a Licensed Operator therefore giving up all responsibility of being the Principle of the booked journey.

Under an "**Intended Use Policy**" a driver could still carry out that return from an area that the private hire vehicle has just dropped in. But it would stop that vehicle from predominantly and purposely loitering or staying in that area for the purpose of being hired and defying local licensing control and being 'out-of-sight and out-of-mind' of the vehicles own local authority enforcement.

An '**Intended Use Policy**' equally applied to the Operator Licence would ensure that the full responsibility of the vehicles under the control of that Licence would **not be predominantly placed** and used out of area for the purposed of being hired but would still allow for the natural transit Cross-Border Hiring that has always taken place.

5: Licensed Vehicles 'Intended Use Policy' – Condition of Licence Wording Example

"A hackney carriage vehicle or private hire vehicle licensed in one local authority can be used to fulfil pre-booked hirings in another local authority.

However in order that the Council may retain local control over its own licensed vehicles applicants will be asked as part of the application process which area they intend to entirely or predominantly operate from for the purposes of fulfilling pre-booked hirings.

It will be incumbent upon the applicant to demonstrate to the council's satisfaction that they intend to predominantly undertake work with the councils licensed vehicle within the Local Authority area.

If the applicant indicates that they will not predominately use the councils licensed vehicle within

the Licensing Authority area the applicant would normally be refused.

If the applicant is subsequently found to be predominately using the vehicle outside the Licensing Authority area the vehicle Licence could be revoked.

This section is not intended to act as a restraint of trade since applicants may make applications to any local authority in whichever area they intend to predominantly undertake work under whatever conditions may be applied.”

6: Licensed Operators ‘Intended Use Policy’ – Condition of Licence Wording Example

“An Operator licensed in one local authority can undertake to fulfil pre-booked hirings in another Local Authority providing the ‘Triple-Lock’ is in force of:

The Driver – The Vehicle – The Operator... all being licensed under one licensing authority

However in order that the Council may retain local control over those vehicles undertaking such work in another area on behalf of the Operator the applicants will be asked as part of the application process which area they intend to entirely or predominantly operate for the purposes of fulfilling pre-booked hirings and supplying vehicles licensed by the council

It will be incumbent upon the applicant to demonstrate to the Council’s satisfaction that they intend to predominantly only fulfil pre-booked hirings with vehicles licensed by the council within the Licensing Authority that the Operator holds the Licence.

If the applicant indicates that they will be predominately using vehicles licensed by the council outside the Local Authority area the application will normally be refused.

If the applicant is found to be placing and predominantly using vehicles licensed by the council to fulfil pre-booked hirings in another the Local Authority area the Operator Licence could be revoked.

This section is not intended to act as a restraint of trade since applicants may make applications to any local authority in whichever area they intend to predominantly undertake work under whatever conditions may be applied.”

7: Hackney Carriage Vehicles: Current ‘Intended Use Policy’ Facility

Under current legislation all Licensing Authorities can **already have** an ‘IUP’ for hackney carriage vehicles. This means that if a hackney carriage vehicle is predominantly used outside of its licensing authority that Licence could be revoked.

It has to be questioned as to why an ‘IUP’ has always been specifically available to local licensing authorities for hackney carriage vehicles and in some areas the condition is in force?

The principle answer to this is ‘**Local Licensing Control and Enforcement**’ which is presumed to have been recognised many years ago.

This is because when a hackney carriage vehicle is licensed in Local Authority ‘**A**’ but predominantly and works in Local Authority ‘**Z**’, which could be many miles away, ‘Local Licensing Control’ in Licensing Authority ‘**Z**’ is undermined and Local Authority ‘**A**’ is unable to fulfil its obligation to carry out ‘Local Licensing Enforcement’.

It is a statutory requirement that under ‘Model Bylaws for Hackney Carriages’ that a hackney carriage must return to the nearest available council stand (Taxi Rank) in its own area.

Model Byelaws for Hackney Carriages

BYELAWS Made under section 68 of the Town Police Clauses Act 1847, and section 171 of the Public Health Act 1875, by the council of [name of council] with respect to hackney carriages in [name of district]

7. *The driver of a hackney carriage shall, when plying for hire in any street and not actually hired*

-

(a) proceed with reasonable speed to one of the stands appointed by the Council;

(b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;'

However this apparently does not apply when a hackney carriage vehicle leaves its respective Licensing Authority in just the same way that a different rate can be charged by the driver of a hackney carriage vehicle other than that prescribed by the Licensing Authority that licensed that vehicle. This is presumed to be why local authorities have imposed an 'Intended Use Policy' to a hackney carriage vehicle.

It should be noted that a hackney carriage vehicle has always been allowed to be used to undertake private hire work whether within its respective Licensing Authority or outside of it although it remains a hackney carriage vehicle at all times.

So it is very clear that Local Licensing Authorities have always had complete control over its licensed hackney carriage vehicles by the use of an 'Intended Use Policy' as a condition of licensing on a vehicle Licence. However whether a Local Licensing Authority decides to impose an 'Intended Use Policy' has been up to each individual area.

Local Councils should now be applying an 'Intended Use Policy' all hackney carriages by default. This is especially important where a Local Authority has a policy of a restricted number of hackney carriages which for all intentions and purposes and by design are there to serve the streets and ranks.

Even before any possible change in Legislation to enforce an 'Intended Use Policy' for all three Licences it is now time for Local Licensing Authorities to be proactive and look at introducing an 'Intended Use Policy' for their Hackney Carriage Vehicles even though it may not be perceived as a current issue. This is because it sets the standard expected and also encourages neighbouring Local Licensing Authorities to also take action.

8: Private Hire Vehicles: Intended Use Policy – It is possible now!

Miscellaneous Provisions Act 1976 – Private Hire Vehicles – Conditions of Licensing

The 76 Act has always had provision to apply any condition of licensing that a local authority wishes to impose.

48 Licensing of private hire vehicles.

(2)A district council may attach to the grant of a Licence under this section such conditions as they may consider reasonably necessary including, without prejudice to the generality of the foregoing provisions of this subsection, conditions requiring or prohibiting the display of signs on or from the vehicle to which the Licence relates.

Knowsley V Delta 2018

In 2018 Knowsley Council made an error in applying an "Intended Use Policy" to the driver Licence and not the vehicle Licence and infamously lost the case on this basis with the Uber barrister famously quoting 'Right to Roam'

Summary by Gerald Gouriet QC

*"However Although Delta and Uber were ad idem with regards to their primary contention that Knowsley's intended use policy was ultra vires, the two firms parted company on one potentially important issue – which, although it was academic in the instant case, the judge said might arise for decision in future litigation. **The issue surfaced in oral argument, which tested the limits of whether it would be lawful to import geographical considerations into PHV Licence conditions. Delta accepted that an appropriately worded condition which promotes the principle of local PHV licensing (as identified by the courts) is capable of being lawful; Uber, on the other hand, argued that such a condition would in all cases offend the principle in Padfield because it would curtail the 'right to roam' – which, it was Uber's contention, is fundamental to the legislative scheme for private hire vehicles given by the 1976 Act.***

Mr. Justice Kerr expressly demurred from deciding the point, but towards the end of his judgment he commented that he was "fortified" by what he had heard in thinking that a fit and proper person might, in principle, be required to abide by a condition (otherwise lawful) imposed in order to meet any perceived erosion of localism."

The interpretation of this was that an 'Intended Use Condition of Licence' could be applied to the vehicle which was conceded by Delta but surprisingly not by Uber.

It is not known as to why Knowsley did not take this avenue later after the case after being given this hint and in effect did not do the national trade any favours it not only getting it wrong but for not correcting this error and taking forward again.

However the LGMP Act 1976 clearly states that:

"(2) A district council may attach to the grant of a Licence under this section such conditions as they may consider reasonably necessary....."

So a condition of 'Intended Use' is there waiting to be enforced for a private hire vehicle Licence in exactly the same way as has always been available for hackney carriage vehicles.

However as yet no council is known to have used this legal right but with the chaos and mass interruption of local licensing control licensing authorities should now look at imposing a condition of licensing for an 'Intended Use Policy' for private hire vehicles using Section 48-2

9: Mass Increase of private hire Licences since 2015

The past five years has seen a massive increase of private hire vehicles/drivers being licensed in one area but working predominantly in a completely different area. A DfT report provided in September for the period 2018/19 showed a shocking increase in private hire vehicles in Lewes DC (91.6%) Aylesbury Vale (64.3%) Wolverhampton (62.3%) South Gloucestershire (54.5%) & Broadland (45%)

Table 3: The licensing authorities showing the largest percentage increases and decreases in licensed vehicles between 2018 and 2019, England (TAXI0104)

Local Authority	% increase	Local Authority	% decrease
Lewes	91.6	Rossendale	49.9
Aylesbury Vale	64.3	St Albans	37.5
Wolverhampton	62.3	Telford and Wrekin	33.9
South Gloucestershire	54.5	South Oxfordshire	23.6
Broadland	45.0	Hertsmere	21.7

The number of total licensed vehicles increased in just under half of the licensing authorities in England (142 out of 293 licensing authorities).

Local level changes
Large year on year changes can occur in a licensing authority for a number of reasons, such as a large operator moving in or out of a given licensing area, or significant changes in local licensing policy

10: Wolverhampton Explosion of private hire vehicle and driver Licences

Unfortunately we have to mention Wolverhampton City Council again but that is the accolade that its licensing department must relish. However for a number of years now Wolverhampton has had a huge and disproportionate increase in the licensing of private hire vehicle and driver licences to the extent that it has recently been reported to have actually issued some 15000+ extra licenses to date. It is obvious that the vast majority of these Private Hire Vehicles are not working within Wolverhampton but instead are predominantly operating many miles away in other Licensing jurisdictions with reported grievances from these areas.

“Wolverhampton Council handed out a record 15,000 private hire Licences last year – raking in nearly £3.7 million in fees.

Yet only a small fraction of the new Licence holders are actually operating in the city of Wolverhampton, with some drivers working hundreds of miles away in areas all over the Country. Applications from as far away as Kilmarnock, Edinburgh, Perth and Kirkcaldy were received by Wolverhampton City Council last year, as the authority granted 15,171 Licences to extend its dominance over the British private hire market.

The data was provided in a Freedom of Information request. It showed that in 2019 a total of 11,461 applications to Wolverhampton Council came from drivers based in Birmingham, while there were 2,457 from Manchester, 1,926 from Coventry, 1,279 from Leicester, 1,102 from Nottingham and 432 from Telford.

In the last five years the city council has received applications from 325 miles away in Perth – a six-hour drive from the city, and 254 miles away in Truro, Cornwall, which takes almost five hours to get to by car. It has granted 35,035 private hire Licences since 2017, pumping £8.7m into the authority’s coffers. Source Express & Star January 11 2020

Wolverhampton Licensing continues to boast about streamlining its licensing system but it has to be questioned as to why so many prefer to be licensed by Wolverhampton and not licensed by the authority and local to them and/or in the area that they predominantly work in. Surely it can’t just be the super speedy process that Wolverhampton brags about? Such practice completely undermines ‘Local Licensing Control’ which was given to local councils under the Local Government Miscellaneous Provisions Act 1976.

No doubt the income to Wolverhampton licensing is a sure way of ensuring that the licensing department is continuously employed but is this to the detriment of those licensing departments in other areas which are then starved of potential licensing funding? Licensing regimes elsewhere who are left up to pick the pieces of enforcement free of charge for Wolverhampton licenses working remotely in their areas. Wolverhampton licenses over which the “local” authority at the remote end has **NO** licensing control!

Could the future be that Wolverhampton will become the UK’s National Centre for Private Hire Vehicles & Drivers with no need for licensing departments elsewhere to even exist?

WOLVERHAMPTON CITY COUNCIL
UK National Centre For Private Hire Licensing

11: Shocking Possibility of Acute Danger to the Public Example

“STATS REVEAL SHOCKING STATE AND AGE OF SOME VEHICLES IN DERBYS TAXI FLEET” - PHTM August 2020

“Half of yellow hackney cabs inspected in Derby over a 12 month period from April 1, 2019 to March 31, 2020 were found to have serious defects and had their Licences suspended. Just two out of 102 inspected were found to be "satisfactory" - four less than the previous year - and 51 were identified as either having defective lights (11), brakes (13), steering (14), tyres (4) or suspension (8). The statistics are contained in a report which is going to the city council's licensing committee next Thursday (August 6).

They also show that 75 private hire vehicles were also inspected with 16 of them proving to be "satisfactory" - up four on the previous year - but 28 were found to have serious defects. Of the 28, 11 had problems with lights, six with brakes, steering (four), tyres (five) and there were four with suspension defects. A total of 25 of the private hire cars also had other problems also. The report says that a risk-based approach was used and licensing compliance and enforcement officers often identify vehicles to inspect that appear to fall below the council's standards for licensed vehicles”

It was and is possible for any one of these low standard licensed vehicles to be predominantly working outside of Derby and out of sight of Derby Licensing Enforcement. This one example alone should be enough to convince the national trade that an ‘Intended Use Policy’ backed by the GMB is now vitally important to have national support of all unions and trade organisations.

To be fair to the Derby taxi/private hire trade it has one of the very lowest council set tariffs in the UK which may be a reflection on the vehicle standards.

12: Lewes District Council – An example of erosion of Brighton & Hove Local Licensing

Lewes DC has been shown to have a massive 91.6% increase in issuing Licences with the vast majority of these vehicles working predominantly in Brighton & Hove.

Will Lewes DC be the next Wolverhampton, or the South of England equivalent?

Like every other area there is no restriction of the numbers of private hire vehicles/driver Licences issued by Brighton & Hove City Council. Yet it is painfully apparent that it is much more favourable to be issued Licences in Lewes DC and then work predominantly in Brighton & Hove. This again completely undermines ‘Local Licensing Control’ and almost amounts to wholesale licensing on a ‘Cash & Carry’ basis.

There is no doubt that this same scenario is repeated up and down the country.

The Brighton & Hove licensed trade has witnessed and reported a very high number of infringements of licensing conditions by Lewes DC private hire vehicles. These include adverse ‘Public Safety’ risks such as compulsory door livery/vehicle identification markings missing, rear Licence plates missing and/or a combination of both.

This clearly occurs because these vehicles are ‘out-of-sight and out-of-mind’ of Lewes DC Licensing Enforcement and the associated abuse(s) of ‘Cross-Border Hiring’. They are effectively being allowed to operate ‘under the radar’ of local enforcement.

It is widely noted and continuously reported that this is exactly what has... and is happening within other local licensing authorities where the local licensing regime has no control on ‘Out of Town’ (OOT) private hire vehicles that are licensed in a completely different area yet predominantly operating locally in another area.

13: DfT Taxi and Private Hire Statutory Standards – Ignoring the obvious issue

The DfT recently published '**Taxi and Private Hire Statutory Standards**' document and celebrated by Grant Shapps boasts that it concentrates on 'Public Safety' with reminders of the painful **past failures of local authorities/police incompetence** that turned a blind eye to Child Sexual Exploitation (CSE).

It emphasises the need for regular checks on drivers which will now involve six monthly Enhanced DBS checks. However the DfT miserably failed to even look at or take account of the issues of 'Cross-Border Hiring'. The same cross border hiring that clearly represents an inherent danger locally with possibly hundreds of unmarked private hire vehicles working out of area and 'Out-of-sight and mind' of their respective Local Licensing Enforcement.

The DfT could effectively require **daily** Enhanced DBS checks for drivers but under their current blessing of the system of Cross Border Hiring and 'remote licensing' how can a local authority be sure that the driver of an 'OOT' private hire vehicle or hackney carriage is actually a 'bone fide' licensed driver in the first place?

The only way to minimise such a risk is for an '**Intended Use Policy**' to be a condition of licensing for hackney carriage and private hire vehicles as well as for Operator Licences.

14: No Intention to hinder natural transit 'Cross-Border Hiring'

Compulsory Intended Use Policy

It is made very clear that '**Triple Intended Use Policy**' will not stop the 'Cross-Border Hiring' and there is no intention of this being the case. This is because 'Cross-Border Hiring' has always taken place and is a natural form of transit especially within neighbouring Local Licensing Authorities.

Where an '**Intended Use Policy**' comes into play is where a Local Licensing Authority licensed vehicle is specifically licensed in one Local Licensing Authority but is purposely and predominantly used in a completely different Local Licensing Authority which is exactly what happens under Wolverhampton and Lewes DC licensing.

This type of spurious licensing also has safety implications with regard to vehicle 'Hire & Reward' insurance. This is in terms of many licensees having made a fraudulent declaration by way of omission in failing to declare where the vehicle is truly working, this clearly affects "risk" and some insurance companies have said leaves the "proposer" open to cancellation of cover.

15 : Hire & Reward Insurance Fraud

When a proprietor of a licensed vehicle seeks insurance cover it is usually the case that the broker or insurance company will ask where that vehicle is licensed. The purpose of this is to ascertain the premium based on local algorithms or crime/accidents and so on. However if that licensed vehicle then predominantly works in a completely different area then this can only be regarded as fraud and an insurance company would have every right not to cover an insurance claim. This is much the same as someone insuring a privately used car and giving the location of where the vehicle is registered in an area classed with less crime/accidents.

There is evidence available that in 2020 the 'Freeway' insurance company refused to pay for a claim under these circumstances much to the protest from the proprietor of the vehicle.

In fact the 'Freeway' has stated that they now **no longer provide cover** for Wolverhampton licensed vehicles which is sadly ironic.

How many private hire vehicles and even maybe hackney carriage vehicles have given fraudulent information in order to gain cheaper insurance cover is a question that needs to be urgently addressed by local licensing authorities. Even now there is no reason for Local Licensing Authorities to closely inspect insurance policies to ensure that the vehicle is covered to predominantly work out of area before any possible proposed changes to current legislation for the 'Intended Use Policy' to be put in place.

16: Insurance and the 'Intended Use Policy' Benefit

A further benefit for an 'Intended Use Policy' would also ensure that proprietors of private hire vehicles were clearly aware that licensing in one area and predominantly working in another area would invalidate the vehicles 'Hire & Reward' policy

Summary

It is not the intention to bring Cross-Bordering Hiring to an end.

It is the intention to stop a vehicle licensed in one area predominantly and intently working in a completely different area out of sight of its respective Local Licensing Enforcement.,

With the current 'Erosion of Local Licensing Control' and the example of low standards of Derby licensed vehicles along with the mass of out of town vehicles predominantly working outside of their respective licensing authorities up and down the country being an encouraged to do so by the likes of Wolverhampton (that causes problems for other licensing authorities) the only way forward now is for full national support of the GMB campaign for an 'Intended Use Policy' for hackney carriages, private hire vehicles and Operators, from all Local Licensing Authority Councils, Unions, Trade Organisations/Associations. Licensed Drivers and Proprietors.

We have the 'Triple Lock' We now need the 'Triple "IUP' to balance this out.

Lastly... a reminder

The proposal from the GMB for an 'Intended Use Policy' is not intended to act as a restraint of trade since anyone can apply to any local authority for a private hire vehicle of Operator licence in whichever area they intend to predominantly undertake work under whatever conditions may be applied.

Andrew Peters

GMB UNION

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Download: gmbtaxi.org.uk/iup

August 16 2020

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Response from Licensed Driver Iain Craigen

Proposed Taxi Licensing Policy Amendments

1. Duration of Driver and Operator Licence

The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and private hire vehicle drivers and five years for private hire vehicle operators. Any shorter duration licence should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, if a licensee has requested one or where required (e.g. when the licence holder's leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand; they should not be issued on a 'probationary' basis.

Proposed amendment to policy

All hackney carriage driver licences and private hire driver licences will be granted for 36 months from the date of issue. In cases where the licence holder is working under visa conditions attached to their passport the licence will only cover up to the expiry date on the visa. For first time applicants they will have the option to be licensed for one year or three years. This option is to allow new drivers a chance to decide whether the job is suitable for them.

Drivers may be granted a one-year licence when the licensing authority thinks that it is appropriate in the specific circumstances of the request.

I.e. When an applicant is of a certain age (65 & above) and is unsure if they will carry on in the Trade for another 3 Years! Also, if a driver has his License revoked By the Council, he is entitled to a refund Based on unused Years Left on his License. Pro Rata.

2. Changes in Licensing Policy

Any changes in licensing requirements should be followed by a review of the licences already issued. If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle. If requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.

Proposed addition to policy

Any changes to the licensing requirements will be followed by a review of the licences currently issued. If requirements are changed regarding vehicle specification or licence holders will need to undertake additional training, then reasonable time will be allowed for these changes to take place.

Grand Father rights of Up to 12 Months for additional Training Courses / Qualification for existing Drivers to find funding to Pay for these Extra Courses / Qualifications.

Where a more subjective change has been introduced, for example an amended policy on previous convictions, the licensing authority will consider each case on its own merits. Where there are

exceptional, clear and compelling reasons to deviate from a policy, the licensing authorities will consider doing so.

3. Disclosure Barring Service (DBS) Update Service

Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.

The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the type of information; for criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months.

Proposed addition to policy

All licensed drivers will be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months.

Should the check reveal that new information is available the DBS certificate will no longer be relied upon and a new DBS certificate will be requested.

All drivers should already have this in place as a normal matter of License Requirement. It is cheaper (£13 per annum) and it can be Checked at any time by the Council. I assume you can see if new information has been added to it, so why would you make the Driver pay another £70 to get a new one?

4. Common Law Police Disclosure/Referrals to the Police/DBS

In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS/Police. A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS. The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role

Proposed amendment to policy

That licensing authority will make a referral to the DBS/Police when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the 'harm test'; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;

if the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

What exactly is the Harm Test? If a Driver Poses a Risk to Children or Vulnerable Adults, they should not have a License in the first place! I am assuming this will be based on a formal complaint from a parent, teacher or the child in question? In Most cases these will more likely be Drivers who have School runs issued by one of the Regional Council's. Which I believe they have their own training and reporting procedures already in place.

5. Licensee Self Reporting

Licence holders should be required to notify the issuing authority within **48** hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so.

This must not however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities.

A failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

Proposed amendment to Policy and Conditions

Existing holders of driver's licences are required to notify the licensing authority in writing within **48 hours** of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings **(including their acquittal as part of a criminal case)**. In addition, licence holders must inform the licensing authority within **48 hours** of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the licensing authority as to the honesty of the licence holder and will be considered as part of any subsequent renewal applications or licence review.

So, you are basically implying that if a Driver has been spoken to by a member of the police over any sort of matter regardless of the content, they need to Inform You or Your Office? Within 48 Hours. Regardless if they have proven their innocence or been released without any further action. As you well know being an Ex-police officer yourself on occasions you must bring someone in for questioning of certain allegations put against them. It sounds like your proposing Guilty until Cleared by The Hackney Office?

6. Sharing Licensing Information

Obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. An obvious source of relevant information is any previous licensing history. Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority.

The Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.

Proposed amendment to Policy

All applicants are required to disclose if they have ever held a licence with any other Authority and additionally if they have ever had a licence refused, revoked or suspended by any other licencing authority. Where an applicant has made a false statement or a false declaration or omitted this information on their application for the grant or renewal of a licence, the licence will normally be refused. The Authority will check all new applicants against the National Revocation and Refusals Register.

Totally Agree with this. We have had cases in the Past When some Drivers are Holding Dual Licenses with different Councils Both Drivers and Hackney / Private Hire! They clearly need to be only Licensed with one Council.

7. Complaints Against Licensees

Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence.

Complaints regarding Private hire Drivers are generally made directly to their Operator rather than the Licensing Department

Proposed amendment to Policy

All Operators are required to keep a record of all complaints received. These records must be made available for inspection by the Licensing Officer on request.

Operators are required to advise the authority when any driver is subject to any complaints regarding safeguarding, dishonesty, abusing customers or more than one complaint which does not fall into these categories in any 12 months.

This is part of normal daily life for Drivers certain people will complain about the tiniest thing at times, as you well know! In fact, some people will make up false complaints on occasion as well. I thought the Council had a procedure in place to address this issue.

8 Overseas Applicants

The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK.

Proposed amendment to Policy

Where an applicant has lived in any Country outside the UK for more than 3 months over the age of 18 they will be required to provide where possible criminal records information or a 'Certificate of Good Character' from overseas for each and every Country that they have resided in. This is to be able to accurately assess risk and support the decision-making process.

So, with this statement you want everyone regardless if they are a British Citizen who has been out of the UK for 3 Months i.e. on extended holiday, visiting extended family, to then apply to whatever country, they visited for a proof of Good Character while they were gone? This will cost more money to the Driver and some countries could even refuse to issue such proof!

9 Fit and Proper Test

Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee.

Proposed Amendment to Policy

The test used by the Authority when considering whether a licence holder is a 'Fit and Proper' Person is:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence. All decisions on the suitability of an applicant or licensee will be made on the balance of probability.

This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and will take into consideration conduct that has not resulted in a criminal conviction.

This seems a bit Harsh on a Person what is their right of Redress on a Refusal? Or to the have to take the Council to Court for an Outcome?

10 Safeguarding Awareness Training

The taxi and private hire vehicle industry can play an important role in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

Proposed amendment to Policy

All new applicants, current licensed drivers, and Operators where they are not also licensed as drivers, will attend Safeguarding Awareness training by an approved provider. This training must be undertaken within 12 months of being licensed or if currently licensed within 12 months of the

introduction of this policy. Failure or refusal to attend this training will result in the licence being suspended until the training is satisfactorily completed. Drivers and Operators who have previously already attended this training need not re-attend.

A lot of Drivers have attended these sorts of Courses in the Past both at Local Council Level i.e. Ardingly Showground a few years ago with yourself present. Losing earnings in the process and at Regional Council Level so they can apply for School Runs. At a cost to their self. Again, this is yet another cost that Drivers will have to Bear the Brunt of.

11 Criminality Checks on Vehicle Proprietors

As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

Proposed amendment to Policy

Where vehicle proprietors are not currently licensed drivers they will be required to provide an annual basic disclosure certificate.

12 In-vehicle visual and audio recording – CCTV

There is a potential risk to both driver and public safety when passengers travel in taxis and private hire vehicles. CCTV can provide additional deterrence to lower the risk and has investigative value when an incident occurs. The use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

CCTV systems that are able to record audio as well as visual data may also help the early identification of drivers that exhibit inappropriate behaviour toward passengers. Audio recording should be both overt (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or drivers) consider it necessary). The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves.

Proposed Amendment to Policy

CCTV systems are to be installed in all licensed Hackney Carriage and Private Hire vehicles (other than Private Hire Vehicles issued with a plate exemption for executive and VIP work and are used solely for this purpose). The system must be approved by the Authority and be capable when

required of audio recording. The Authority will become the Data Controller and will publish a Data Impact Statement and guidance to drivers. The CCTV system must be installed in vehicles by 1st October 2022.

This proposal Although I do not Agree with it! I can see the benefits to Both Council, Police & Driver. My concern is which ever provider You Approve they will have a Monopoly on the instillation of these CCTV units, which again is yet another Cost Implication to Driver/ Owner. Will the Council Subsidise the Cost of these units? Or will we get some sort of Grant from Central Government?

13 Stretched Limousines

The Authority is sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as private hire vehicles, these vehicles may be used for transport to 'school proms' as well as for adult bookings. They are not currently licensed and as such may create an unacceptable risk to the travelling public, as it may lead to higher levels of unsupervised operation.

Proposed Amendment to Policy

Stretch Limousines or similar vehicles which can carry less than 9 passengers used for transport to school proms or for adult bookings will be required to be licensed by the Authority. The driver and operator must hold the relevant private hire licences

This is a thing that should have been instigated Years Ago. I can see lots of problems in Policing & Enforcing It! What is to stop these Operators operating in a different district. As you yourself have said you do not have any authority over vehicles working in this district from other areas?

14 Criminality checks for Private Hire Vehicle Operators

Currently Private Hire Operators who are not also licensed drivers are required to provide a basic DBS Disclosure certificate every 3 years. The Authority will require this check to be completed annually.

Additionally, Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff. There is a person taking bookings (be it by phone or in person), the vehicle dispatcher who decides which driver to send to a user. These are positions that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults and the Authority should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public.

Proposed Amendment to Policy

Operators will be required as a condition of granting an operator licence, to keep a register of all staff that will take bookings or dispatch vehicles. Operators will be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that

this is compatible with their policy on employing ex-offenders. Operators will have to provide their policy on employing ex-offenders in either of these roles.

Is this not a contradiction on being a Fit and Proper Person for Drivers if your employing ex-offenders? Surely Operators and Office staff should be checked just as much as drivers, as they can also have dealings with the general public in booking offices etc. Not just a basic check but an enhanced check same as drivers.

15 Operator Records

The licence conditions will be amended to ensure that more detailed information is taken in respect of each booking. This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement.

Proposed Amendment to Policy

The Operator will be required to record the following information for each booking

- the name of the passenger;
- contact telephone number of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle dispatched;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.

I would have thought with most Data Dispatch Systems all the above Information would already be required. With Covid-19 Now being around this Year this information should be included for NHS Track & Trace as well as Council purposes. It would seem that the email sent out by your office forwarded from West Sussex Council regarding that Taxi Drivers keep records of Customers travelling in their taxi for Track & Trace fell on Deaf Ears I seem to be the Only Driver Collecting this information WHY?

16 Use of PCV Licensed Drivers

PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver.

Proposed Amendment to Policy

The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a private hire vehicle booking should not be permitted by private hire vehicle operator without the informed consent of the person making the booking.

Surely if someone phones up to book transport for say 16 people, they would probably be informed by the Company in question that they are only Licensed for up to 8 people per Vehicle so you will require two Vehicles. Or I can ask a small Bus company if they can do it! i.e. Hello Travel who is the only company I know round here that have bigger vehicles.

17 Assessment of Previous Conditions

The current convictions policy does not specifically cover Exploitation Offences or offences around discrimination.

Proposed Amendment to Policy

Exploitation

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Exploitation is a given as far as I can see. I think the discrimination clause could be harder to defend not granting a license as it could be an argument between neighbours of different ethnic origins.

18 Intended Use Policy for Hackney Vehicles

The nature of the Licensing Regime is that drivers and vehicles are licensed locally. When vehicles work remotely away from their Licensing District it causes issues regarding ensuring vehicle and driver compliance and can compromise public safety. Mid Sussex has a cap on the number of Hackney Vehicle Licences that it currently issues. Each Taxi that works remotely away from the district is one less vehicle for the public Mid Sussex to be able to use. There have been complaints regarding vehicles working regularly in other Districts.

Proposed Amendment to Policy

A condition to be added to Hackney Vehicle Licences, that on renewal the vehicle proprietor will be asked two questions

- 1) Do you intend that the hackney carriage will be used to ply for hire within the area of Mid Sussex District Council?

- 2) Do you intend that the hackney carriage will be used entirely or predominantly for private hire outside the area of Mid Sussex District Council?

In order to obtain a licence, the answer to 1) will be yes and the answer to 2) will be no. If the vehicle is found to be operating in contravention to these replies, then consideration would be given to revoking the vehicle licence.

This proposal would be hard to enforce Taxis in this area do get Airport Bookings as well as bookings elsewhere in the country as a lot of taxis are owner /operator with sole drivers manning them the taxi would only be available when that person is working. I do not think I have heard of a Taxi from here working say in London or Birmingham for instance. How would you keep track of anyone working elsewhere?

19 Written Off Vehicles

There are a number of categories for vehicles that have been classed as being written off. These range from vehicles that cannot be repaired to vehicles which could potentially be repaired to a roadworthy condition. However, there are difficulties in establishing that any repairs have been completed to a professional standard.

Proposed Amendment to Policy

The Authority will not license any vehicle that has been classed a 'write off' in any category.

Again, this will have a cost Implication on Drivers some Insurance Companies Write Off Cars with very little reason as they have a policy regarding value of the car etc to decide if they will repair it or not!

20 Vaping

Proposed Amendment to Policy

The current condition regarding no smoking in licensed vehicles will be amended to include vaping.

Totally Agree

21 Card Payments

A number of drivers now take card payments however there have been reports that arbitrary limits have been placed on their acceptance. For example, a card payment will not be accepted for journeys that are under £10. This has led to instances of shorter journey being refused by drivers which can cause an unacceptable risk to the public especially late at night.

Proposed Amendment to Policy

A condition will be added to Vehicle Licences that when credit/debit cards are accepted as payment by a driver they cannot set a minimum card payment amount.

I take card payments like most people nowadays and most are will take any payment cost so yes I agree with this.

22 **Wheelchair Accessible Vehicle Licence**

There have been issues where Wheelchair Accessible Vehicles have not had the appropriate equipment available to transport wheelchair passengers.

Proposed Amendment

A condition will be added to specify that Wheelchair accessible vehicles must always have the appropriate equipment to carry wheelchair customers available and in working condition otherwise the vehicle licence will be immediately suspended.

Thought that was already in Place?

23 **Private Hire Door Signs**

From the 1st October 2022 Hackney vehicles will have to display door signs with the Mid Sussex Logo and licence number. To provide consistency across the licensed fleet to apply the same requirement for Private Hire vehicles. It would also provide extra visibility and reassurance to the travelling public that they are getting into a locally licensed vehicle

Proposed Amendment

From 1st October 2022 Private Hire Vehicles front doors must display the MSDC logo, with the words “Private Hire Vehicle, Advanced Booking Only” and the licence number.

Totally Agree It won't make any difference to the general public as most don't know the Difference as it is already.

24 **Licensed Vehicle Emissions**

There is a drive towards reducing vehicle emissions and although the licensed trade only forms a small proportion of the current vehicle traffic they do travel a large number of miles each year.

The aim of Euro emissions standards is to reduce the levels of harmful exhaust emissions, chiefly:

- Nitrogen oxides (NOx)
- Carbon monoxide (CO)
- Hydrocarbons (HC)
- Particulate matter (PM)

These standards are having a positive effect, with the SMMT (Society of Motor Manufacturers and Traders), claiming: “It would take 50 new cars today to produce the same amount of pollutant emissions as one vehicle built in the 1970s.”

Because petrol and diesel engines produce different types of emissions they are subject to different standards. Diesel, for example, produces more particulate matter – or soot – leading to the introduction of diesel particulate filters (DPFs).

The EU has pointed out, however, that NOx emissions from road transport “have not been reduced as much as expected...because emissions in ‘real-world’ driving conditions are often higher than those measured during the approval test (in particular for diesel vehicles)”.

The current Euro Standard for diesel vehicle emissions is Euro 6.

Proposed Amendment

From 1st October 2022 all licensed diesel vehicles must be compliant with Euro 6 emissions standard and petrol vehicles with the Euro 4 standard.

This Is Going to be the Biggest Bug Bear for Drivers / Owners and will cause a Hugh Strain on already Stretched Purse Strings. I myself will Have to change my car next Year anyway as it has fallen into the Current 10 Year Bracket. That is of course if I am still doing this by then? As you know yourself since the first recession struck our livelihood has dwindled in ever increasing circles making a living is harder and harder. With costs rising all the time and earnings falling. Drivers are spending longer hours trying to earn the same levels of income that they earned in earlier years! I believe that these new Euro Emissions equate to cars and van registered from 2016 onwards? As you know this will force Drivers to Change Vehicles a lot earlier than they planned for. If they have a car registered between 2012 & 2016 regardless of the current 10 Year ruling in place! This one Ruling from the Council could Force Drivers to leave this Trade in Doves, overnight in fact. Less than 2 years notice is **NOT ENOUGH TIME!** I would Strongly Recommend that this is delayed for **at Least a Further 2 Years** to try and get some semblance back into this Trade. This trade has suffered immensely especially with Covid-19. We rely on People travelling from A to Z and everywhere in between that is not happening in today’s World. Business as well as Leisure travel has dwindled to virtually nothing. People have changed their work schedules with many mainly working from home and that wont change anytime soon. As, well as people doing more shopping online and consequently less customers travelling around the District. Which has a direct effect on the Trade!

25 Mandatory Disability Awareness Training

Private Hire and Hackney Carriage drivers frequently encounter passengers with various disabilities and it is therefore considered necessary that all drivers are aware of the needs of disabled passengers. Disability awareness training benefits both the customer and driver and the Council should make it a pre-condition for being granted a driver’s licence.

The Equality Act 2010 focused on the needs of people with protected characteristics, which includes disabilities. Public bodies, including local authorities, have a lawful duty of regard to: eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not.

The Department for Transport’s Draft Accessibility Action Plan described refusals of assistance dogs by taxi and PHV drivers as “unacceptable and illegal”, noting the serious impact of refusals on people’s confidence and ability to live independently. The plan commits the UK Government to

publish best practice guidance for licensing authorities, recommending that disability equality training be mandated in their licensing policies.

Proposed Amendment

All new applicants and current licensed drivers are required to undertake recognised Disability Awareness and Equality Act training in relation to disabled and vulnerable passengers as part of their professional development. The Training will be organised by MSDC and delivered through a provider of their choice. This is to ensure that all drivers operate to a consistent standard and can provide a safe and suitable level of transport service to disabled and vulnerable passengers.

Disability awareness training for all new drivers must be undertaken within 12 months from the date of issue of the licence.

Existing MSDC licensed drivers that have not previously undergone recognised Disability awareness training must attend a session within 12 months from implementation of this revised policy.

Failure to attend this training during the timescales outlined above will result in the licence being suspended until the training has been successfully attended.

Again, more costs for the Trade to swallow Why Cannot existing Drivers be exempt this training unless they have had a complaint from a disabled person? I myself have been doing this job for 20 Years as well as many other Drivers and I know how to deal with people with disabilities. Or are these courses going to be run by the Council to get even more revenue from drivers?

26. Vehicle Damage Reporting

Proposed Amendment

The requirement of the vehicle proprietor and driver, if different, to report to the Licensing Team within 72 hours any accident to the vehicle causing damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of persons carried therein.

Thought This was already in our terms of operation?

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Department
for Transport

Statutory Taxi & Private Hire Vehicle Standards

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1. Introduction

- 1.1 There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated and in some cases perpetrated by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers. Links between the trade and child sexual abuse and exploitation have been established in many areas and other investigations continue. Data on reported sexual assaults by taxi and private hire vehicle drivers evidence the risk to passengers; data from [Greater Manchester](#) and [Merseyside](#) suggest that, if similar offence patterns are applied across England, 623 sexual assaults per year are reported. These figures do not however account for the under reporting of crime which is estimated to be as high as 83 percent in the [Crime Survey for England and Wales](#).
- 1.2 The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this document, a child is defined as anyone who has not yet reached their 18th birthday; and the term “vulnerable individual” has the same meaning as the definition of a ‘vulnerable adult’ for the purpose of section 42 of the [Care Act 2014](#), which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):
- (a) has needs for care and support (whether or not the authority is meeting any of those needs),
 - (b) is experiencing, or is at risk of, abuse or neglect, and
 - (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- 1.3 Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.**
- 1.4 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Taxi and Private Hire Vehicle Standards issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxi and private hire vehicle policy was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate on these issues, the standards in this document would, cease to apply.

- 1.5 All local authorities and district councils that provide children's and other types of services, including licensing authorities, have a statutory duty to make arrangements to ensure that their functions and any services that they contract out to others are discharged having regard to the need to safeguard and promote the welfare of children. This means that licensing authorities should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children. This includes clear whistleblowing procedures, safe recruitment practices and clear policies for dealing with allegations against people who work with children, as set out in the [Working Together to Safeguard Children](#) statutory guidance.
- 1.6 The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department's Best Practice Guidance. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).
- 1.7 The standards in this document replace relevant sections of the Best Practice Guidance issued by the Department in 2010, where there is a conflict between the Statutory Taxi and Private Hire Vehicle Standards and the Best Practice Guidance the Department issue on taxi and private hire vehicle licensing, the standards in this document take precedence.

Terminology

Taxis are referred to in legislation, regulation and common language as 'hackney carriages', 'black cabs' and 'cabs'. The term '**taxi**' is used throughout this document and refers to all such vehicles. Taxis can be hired immediately by hailing on the street or at a rank.

Private hire vehicles include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All private hire vehicle journeys must be pre-booked via a licensed private hire vehicle operator and are subject to a 'triple licensing lock' i.e. the operator fulfilling the booking must use vehicles and drivers licensed by the same authority as that which granted its licence. The term 'private hire vehicle' is used throughout this document to refer to all such vehicles.

2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards

- 2.1 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in the Statutory Taxi and Private Hire Vehicle Standards and recommend that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.
- 2.2 The Government set out in the [Modern Crime Prevention Strategy](#) the evidence that where Government, law enforcement, businesses and the public work together on prevention, this can deliver significant and sustained cuts in certain crimes. That is good news for victims and communities and it makes clear economic sense too. Educating the public on the risks of using unlicensed drivers and vehicles, how to identify the licensed trade and appropriate measure to take when using these services will protect help all passengers, more information is annexed to this document (Annex - Staying safe: guidance for passengers).
- 2.3 The Strategy committed to protect children and young people from the risk of child sexual abuse and exploitation (CSAE), by working with local authorities to introduce rigorous taxi and private hire vehicle licensing regimes. Both the [Jay](#) and [Casey](#) reports on CSAE highlighted examples of taxi/private hire vehicle drivers being directly linked to children that were abused, including instances when children were picked up from schools, children's homes or from family homes and abused, or sexually exploited.
- 2.4 The Casey Report made clear that weak and ineffective arrangements for taxi and private hire vehicle licensing had left the children and public at risk. The Department for Transport has worked with the Home Office, Local Government Association (LGA), personal safety charities, trade unions and trade bodies,

holding workshops, forums, and sharing evidence and good practice with local authorities to assist in the setting of the standards.

- 2.5 This document is published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).
- 2.6 The document sets out a framework of policies that, under section 177(4), licensing authorities “**must have regard**” to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.7 “Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated.** It is not a question of box ticking; the standards must be considered rigorously and with an open mind.
- 2.8 Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence. **In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.** The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).
- 2.9 The Statutory Taxi and Private Hire Vehicle Standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.

3. Administering the Licensing Regime

Licensing policies

- 3.1 The Department recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 3.2 When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the [report by Dame Louise Casey CB](#) of February 2015 on safeguarding failings.

“It will be evident from this report that in many cases the activities of perpetrators take place in spheres which are regulated by the Council – taxis have been the focus of particular concern. Persistent and rigorous enforcement of the regulatory functions available to the council, including the placing of conditions on private hire taxi operator licences where appropriate, would send a strong signal that the trade is being monitored and would curtail the activities of opportunistic perpetrators whereby taxi drivers have solicited children to provide sex in return for cigarettes, alcohol or a fare free ride.”

- 3.3 The long-term devastation caused by CSAE was summarised in the same report:

“Victims suffer from suicidal feelings and often self-harm. Many become pregnant. Some have to manage the emotional consequences of miscarriages and abortions while others have children that they are unable to parent appropriately. The abuse and violence continues to affect victims into adulthood. Many enter violent and abusive relationships. Many suffer poor mental health and addiction.”

- 3.4 Rotherham Metropolitan Borough Council ('Rotherham Council') provides an example of how the systematic review of policies and procedures and the implementation of a plan to drive improvements in practice can result in a well-functioning taxi and private hire vehicle sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere is well known, but it is the transparency and resolution that Rotherham Council has demonstrated and the high standards they now require that are rebuilding public confidence.
- 3.5 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. **Licensing authorities should review their licensing policies every five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually.**

Duration of licences

- 3.6 A previous argument against issuing licences for more than a year was that a criminal offence might be committed, and not notified, during this period; this can of course also be the case during the duration of a shorter licence. This risk can be mitigated for drivers by authorities to undertaking regular interim checks. To help authorities monitor licensees' suitability, licensing authorities should engage with their police force to ensure that when the police believe a licensee presents a risk to the travelling public they use their Common Law Police Disclosure powers (see paragraphs 4.9 - 4.11) to advise them.
- 3.7 The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and private hire vehicle drivers and five years for private hire vehicle operators. Any shorter duration licence should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, if a licensee has requested one or where required (e.g. when the licence holder's leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand; they should not be issued on a 'probationary' basis.

Whistleblowing

- 3.8 It is in the application of licensing authority's policies (and the training and raising of awareness among those applying them) that protection will be provided. Where there are concerns that policies are not being applied correctly, it is vital that these can be raised, investigated and remedial action taken if required. **Licensing authorities should have effective internal procedures in place for staff to raise concerns and for any concerns to be dealt with openly and fairly.**

A report into the licensing of drivers by South Ribble Borough Council highlights the implications of not applying the agreed policies. In early August 2015, concerns were raised regarding decisions to renew the licences of drivers where there were potential incidents of child sexual exploitation. An internal review concluded that there had been failings in local investigatory procedures which might have affected the ability of the General Licensing Committee to make proper decisions, and information sharing with the police and data recording was not satisfactory.

- 3.9 The external investigation in South Ribble concluded “that there had been a lack of awareness and priority given to safeguarding and the safety of taxi [and private hire vehicle] passengers in the manner in which licensing issues were addressed”. We are pleased to note that the [report](#) concludes, “The Council have been active at every stage in responding to issues and concerns identified. It has taken steps to address operational issues in the licensing function and has engaged fully with other agencies in so doing. In the light of the above, it is not necessary to make any further recommendations.”
- 3.10 It is hoped that all licensing authorities will have learnt from these mistakes but to prevent a repeat, **local authorities should ensure they have an effective ‘whistleblowing’ policy and that all staff are aware of it.** If a worker is aware of, and has access to, effective internal procedures for raising concerns then ‘whistleblowing’ is unlikely to be needed.
- 3.11 The Public Interest Disclosure Act 1998 (PIDA), commonly referred to as whistleblowing legislation, provides protection for those that have a reasonable belief of serious wrongdoing, including failure to comply with professional standards, council policies or codes of practice/conduct. The PIDA is part of employment law. In the normal course of events, if a worker reveals information that his employer does not want revealed it may be a disciplinary offence. If someone leaked their employer’s confidential information to the press, they might expect to be dismissed for that. The PIDA enables workers who ‘blow the whistle’ about wrongdoing to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so. It is a qualified protection and certain conditions would have to be met for the worker to be protected. More information is available online for [employees](#) and [employers](#):

Consultation at the local level

- 3.12 Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades’ customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest (e.g. the Campaign for Better Transport and other transport providers), women’s groups, local traders, and the local multi-agency safeguarding arrangements. It may also be helpful to consult with night-time economy groups (such as Pubwatch) if the trade is an important element of dispersal from the local night-time economy’s activities.
- 3.13 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas; and **licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change.** Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; this should be adopted by all authorities.

Changing licensing policy and requirements

- 3.14 **Any changes in licensing requirements should be followed by a review of the licences already issued.** If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle. The same pragmatic approach should be taken to driver licence changes - if requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.
- 3.15 Where a more subjective change has been introduced, for example an amended policy on previous convictions, a licensing authority must consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities should consider doing so. Licensing authorities should record the reasons for any deviation from the policies in place.

4. Gathering and Sharing Information

- 4.1 Licensing authorities must consider as full a range of information available to them when making a decision whether to grant a licence and to meet their ongoing obligation to ensure a licensee remains suitable to hold a licence.

The Disclosure and Barring Service

- 4.2 The Disclosure and Barring Service (DBS) provides access to criminal record information through its disclosure service for England and Wales. The DBS also maintains the lists of individuals barred from working in regulated activity with children or adults. The DBS makes independent barring decisions about people who have harmed, or where they are considered to pose a risk of harm to a child or vulnerable person within the workplace. The DBS enables organisations in the public, private and voluntary sectors to make safer employment decisions by identifying candidates who may be unsuitable for certain work, especially that which involves vulnerable groups including children.
- 4.3 Enhanced certificates with a check of the barred lists include details of spent and unspent convictions recorded on the Police National Computer (PNC), any additional information which a chief officer of police believes to be relevant and ought to be disclosed, as well as indicating whether the individual is barred from working in regulated activity with children or adults. Spent convictions and cautions are disclosed on standard and enhanced certificates according to rules set out in legislation. Convictions which resulted in a custodial sentence, and convictions or cautions for a specified serious offence such as those involving child sexual abuse will always be disclosed on a standard or enhanced certificate. Full details of the disclosure rules, and those offences which will always be disclosed, are available from the [DBS](#). As well as convictions and cautions, an enhanced certificate may include additional information which a chief police officer reasonably believes is relevant and ought to be disclosed. Chief police officers must have regard to the [statutory guidance](#) issued by the Home Office when considering disclosure. A summary of the information provided at each level of DBS checks is annexed to this document (Annex – Disclosure and Barring Service information).
- 4.4 It should be noted that licensing authorities must not circumvent the DBS process and seek to obtain details of previous criminal convictions and other information that may not otherwise be disclosed on a DBS certificate. Whilst data protection legislation (not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)) gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, it is a criminal offence to require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This could potentially lead to the authority receiving information to which it is not entitled. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.

The Disclosure and Barring Service Update Service

- 4.5 Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.
- 4.6 The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the type of information; for criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months.
- 4.7 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check Facility (MSCF) that can be accessed via a web service. The MSCF enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the MSCF is available from the [DBS](#).
- 4.8 Should the MSCF advise that new information is available the DBS certificate should no longer be relied upon and a new DBS certificate requested.

Common Law Police Disclosure

- 4.9 The DBS is not the only source of information that should be considered as part of a fit and proper assessment for the licensing of taxi and private hire vehicle drivers. Common Law Police Disclosure ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger.
- 4.10 Common Law Police Disclosure replaced the Notifiable Occupations Scheme (NOS) in March 2015 and focuses on providing timely and relevant information which might indicate a public protection risk. Information is passed on at arrest or charge, rather than on conviction which may be some time after, allowing any measures to mitigate risk to be put in place immediately.
- 4.11 This procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. **Licensing authorities should maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.**

Licensee self-reporting

- 4.12 Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so. This must not

however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities. Should an authority place an obligation on licensees to notify under these circumstances, authorities should also ensure appropriate procedures are in place to enable them to act in a suitable timeframe if and when needed.

- 4.13 Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

Referrals to the Disclosure and Barring Service and the Police

- 4.14 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS. **A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS.** The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the [DBS](#).

- 4.15 The Department recommends that licensing authorities should make a referral to the DBS when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the '[harm test](#)'; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;

if the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

- 4.16 These referrals may result in the person being added to a barred list and enable other licensing authorities to consider this should further applications to other authorities be made. Further information on referrals to DBS is [available](#).

Working with the Police

- 4.17 The police are an invaluable source of intelligence when assessing whether a licensing applicant is a 'fit and proper' person. It is vital that licensing authorities have a partnership with the police service to ensure that appropriate information is shared as quickly as possible. As part of building an effective working relationship between the licensing authority and the police, **action taken by the licensing authority as a result of information received should be fed-back to the police.** Increasing the awareness among police forces of the value licensing authorities place on the information received, particularly on non-conviction intelligence, will assist furthering these relationships and reinforce the benefits of greater sharing of information.
- 4.18 This relationship can be mutually beneficial, assisting the police to prevent crime. The police can gain valuable intelligence from drivers and operators, for example, the identification of establishments that are selling alcohol to minors or drunks, or the frequent transportation of substance abusers to premises.
- 4.19 To aid further the quality of the information available to all parties that have a safeguarding duty, a revocation or refusal on public safety grounds should also be advised to the police.

Sharing licensing information with other licensing authorities

- 4.20 As has been stated elsewhere in this document, obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. An obvious source of relevant information is any previous licensing history. **Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority.** Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.
- 4.21 The LGA's Councillors' [Handbook on taxi and private hire vehicle licensing](#) advises that those responsible for licensing should "*communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistency and robustness in decision-making. By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities.*". While this approach may aid consistency and robustness in decision-making within regions, it has obvious inherent limitations as it is unlikely such protocols could be established between all licensing authorities. The LGA commissioned the National Anti-Fraud Network to develop a national register of taxi and private hire vehicle driver licence refusals and revocations (the register is known as 'NR3'). **Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.**

- 4.22 For these processes to be beneficial, all licensing authorities must keep a complete and accurate record as to the reasons for refusal, suspension or revocation of a licence in order that this might be shared if requested and appropriate to do so.
- 4.23 Data protection legislation provides exemption from the rights of data subjects for the processing of personal data in connection with regulatory activities. This includes taxi and private hire vehicle licensing. The exemption applies only to information processed for the core regulatory activities of appropriate organisations; it may not be used in a blanket manner. The exemption applies only to the extent that the application of the rights of data subjects to the information in question would be likely to prejudice the proper discharge of the regulatory functions. The Information Commissioner's Office has published [guidance](#) to assist organisations to fully understand their obligations and suggest good practice.
- 4.24 If notification under paragraph 4.20 or 4.21 of a refused or revoked licence is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. In those circumstances, the relevant licensing authority must consider whether it should disclose any information in relation to the previous decision, consistent with its obligations under data protection legislation. If information is disclosed, it can then be taken into account in determining the applicant's fitness to be licensed. The relevance of the reason for refusing/revoking a licence must be considered. For example, if any individual was refused a licence for failing a local knowledge test, it does not have any safeguarding implications. Conversely, a revocation or refusal connected to indecency would. Licensing authorities should not simply replicate a previous decision, authorities must consider each application on its own merits and with regard to its own policies.
- 4.25 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 4.20, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should review whether the licence holder remains 'fit and proper'.

Multi-agency Safeguarding Hub (MASH)

- 4.26 Multi-Agency Safeguarding Hubs are a way to improve the safeguarding response for children and vulnerable adults through better information sharing and high quality and timely safeguarding responses. MASHs (or similar models) should operate on three common principles: information sharing, joint decision making and coordinated intervention.
- 4.27 The Home Office report on [Multi Agency Working and Information Sharing](#) recommended that effective multi-agency working still needs to become more widespread. The Children's Commissioner's 2013 [Inquiry into Child Sexual Exploitation in Gangs and Groups](#) found that both police and local authorities still identified the inability to share information as a key barrier to safeguarding children from sexual abuse and exploitation.

4.28 All licensing authorities should operate or establish a means to facilitate the objectives of a MASH (i.e. the sharing of necessary and relevant information between stakeholders). As has been emphasised throughout this document, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and private hire vehicles is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

Complaints against licensees

4.29 Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. **All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.** Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the 'balance of probabilities' assessment that licensing authorities must take.

4.30 Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder must be determined by the licensing authority, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.

4.31 To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all licensed vehicles. This is likely to result in additional work for the licensing authority but has the advantage of ensuring consistency in the handling of complaints. Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.

4.32 Importantly, this approach will assist in the directing of complaints and information regarding the behaviour of drivers who may be carrying a passenger outside of the area in which the driver is licensed to the authority that issued the licence. In order for this to be effective licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.

4.33 In terms of investigating complaints CCTV footage of an incident can provide an invaluable insight, providing an 'independent witness' to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 7.7 - 7.12.

Overseas convictions

- 4.34 The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK. It should however be noted that some countries will not provide an 'Certificate of Good Character' unless the individual has been resident for six months or more
- 4.35 Licensing authorities should seek or require applicants to provide where possible criminal records information or a 'Certificate of Good Character' from overseas in this circumstance to properly assess risk and support the decision-making process (. It is the character of the applicant as an adult that is of particular interest, therefore an extended period outside the UK before the age of 18 may be less relevant. As with all licensing decisions, each case must be considered on its own merits. For information on applying for overseas criminal record information or 'Certificates of Good Character' please see the Home Office [guidance](#).
- 4.36 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in the annex to this document (Annex – Assessment of previous convictions), licensing authorities should advise the applicant to seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

5. Decision Making

Administration of the licensing framework

- 5.1 A policy is only effective if it is administered properly. The taxi and private hire vehicle licensing functions of local councils are non-executive functions i.e. they are functions of the council rather than the executive (such as the Cabinet). The functions include the determination of licence applications, reviews and renewals, along with the attachment of conditions when considered appropriate. The function may be delegated to a committee, a sub-committee or an officer – which should be set out within a clear scheme of delegation. In London the taxi and private hire vehicle licensing function is undertaken by Transport for London.
- 5.2 Licensing authorities should ensure that all individuals that determine whether a licence is issued or refused are adequately resourced to allow them to discharge the function effectively and correctly.

Training decision makers

- 5.3 **All individuals that determine whether a licence is issued should be required to undertake sufficient training.** As a minimum, training for a member of a licensing committee should include: licensing procedures, natural justice, understanding the risks of CSAE, disability and equality awareness and the making of difficult and potentially controversial decisions. Training should not simply relate to procedures, but should include the use of case study material to provide context and real scenarios. All training should be formally recorded by the licensing authority and require a signature from the person that has received the training. Training is available from a number of organisations including the Institute of Licensing and Lawyers in Local Government; the LGA may also be able to assist in the development of training packages.
- 5.4 Public safety is the paramount consideration but the discharge of licensing functions must be undertaken in accordance with the following general principles:
- policies should be used as internal guidance, and should be supported by a member/officer code of conduct.
 - any implications of the Human Rights Act should be considered.
 - the rules of natural justice should be observed.
 - decisions must be reasonable and proportionate.
 - where a hearing is required it should be fairly conducted and allow for appropriate consideration of all relevant factors.
 - decision makers must avoid bias (or even the appearance of bias) and predetermination.
 - data protection legislation.

5.5 When a decision maker has a prejudicial interest in a case, whether it be financial or a personal relationship with those involved they should declare their interest at the earliest opportunity; this must be prior to any discussions or votes and, once declared, they must leave the room for the duration of the discussion or vote.

The regulatory structure

5.6 It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.

5.7 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 5.4. In particular, the Committee/Board model allows for:

- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
- Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.

5.8 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees.

5.9 Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.

5.10 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers; however, this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close

connection between the officers on the panel, and those involved in the operational discharge of the licensing functions.

- 5.11 Whether the structure proposed is introduced or an alternative model is more appropriate in local circumstances, the objective should remain the same - to separate the investigation of licensing concerns and the management of the licence process. Regardless of which approach is adopted, **all licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence.** It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service.

Fit and proper test

- 5.12 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

- 5.13 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 5.14 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

Criminal convictions and rehabilitation

- 5.15 In considering an individual's criminal record, licensing authorities must consider each case on its merits, but they should take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime. In order to achieve consistency, and to mitigate the risk of successful legal challenge, licensing authorities should have a clear policy for the consideration of criminal records. This should include, for example, which offences would prevent an applicant from being licenced regardless of the period elapsed in all but truly exceptional circumstances. In the case of lesser offences, a policy should consider the number of years the authority will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

- 5.16 Annexed to this document are the Department's recommendations on the assessment of previous convictions (Annex – Assessment of previous convictions). This draws on the work of the Institute of Licensing, in partnership with the LGA, the National Association of Licensing Enforcement Officers (NALEO) and Lawyers in Local Government, in publishing its guidance on determining the suitability of taxi and private hire vehicle licensees.
- 5.17 These periods should be taken as a starting point in considering whether a licence should be granted or renewed in all cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain a licence. Authorities are however reminded that applicants are entitled to a fair and impartial consideration of their application.

6. Driver Licensing

Criminality checks for drivers

- 6.1 Licensing authorities are entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all driver licence holders or applicants. The DfT's 2019 [survey of taxi and private hire vehicle licensing authorities](#) shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal.
- 6.2 All individuals applying for or renewing a taxi or private hire vehicle drivers licence licensing authorities should carry out a check of the children and adult Barred Lists in addition to being subject to an enhanced DBS check (in section x61 of the DBS application 'Other Workforce' should be entered in line 1 and 'Taxi Licensing' should be entered at line 2). All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.
- 6.3 Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the barred list. This means that an individual subject to barring would not be legally prevented from being a taxi or private hire vehicle driver but the licensing authority should take an individual's barred status into account alongside other information available. **In the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list.** Should a licensing authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a barred list to be 'fit and proper', the reasons for reaching this conclusion should be recorded.
- 6.4 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the [Safeguarding Vulnerable Groups Act 2006](#). It is an offence to knowingly allow a barred individual to work in regulated activity. The [guidance on home-to-school travel and transport](#) issued by the Department for Education should be considered alongside this document. Please see [guidance](#) on driver DBS eligibility and how to apply.

Safeguarding awareness

- 6.5 Licensing authorities should consider the role that those in the taxi and private hire vehicle industry can play in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

6.6 All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers to undertake safeguarding training. This is often produced in conjunction with the police and other agencies. These programmes have been developed to help drivers and operators:

- provide a safe and suitable service to vulnerable passengers of all ages;
- recognise what makes a person vulnerable; and
- understand how to respond, including how to report safeguarding concerns and where to get advice.

6.7 Since 2015, the Department for Education (DfE) has run a nationwide campaign – *‘Together, we can tackle child abuse’* which aims to increase public understanding of how to recognise the signs to spot and encourage them to report child abuse and neglect. The DfE continues to promote and raise awareness of the campaign materials through its [online toolkit](#), for local authorities, charities and organisations for use on their social media channels.

‘County lines’ exploitation

6.8 County lines is a term used to describe gangs and organised criminal networks involved in exporting illegal drugs (primarily crack cocaine and heroin) into one or more importing areas [within the UK], using dedicated mobile phone lines or other form of “deal line”.

6.9 Exploitation is an integral part of the county lines offending model with children and vulnerable adults exploited to transport (and store) drugs and money between locations. Children aged between 15-17 make up the majority of the vulnerable people involved in county lines, but they may also be much younger. We know that both girls and boys are groomed and exploited and offenders will often use coercion, intimidation, violence (including sexual violence) and weapons to ensure compliance of victims. Children exploited by county lines gangs may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues, being excluded from school or frequently going missing.

6.10 The National Crime Agency’s 2018 county lines threat assessment set out that the national road network is key to the transportation of county lines victims, drugs and cash; with hire vehicles being one of the methods used for transportation between locations.

6.11 Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation. Firstly, they should be aware of the following warning signs:

- Children and young people travelling in taxis or private hire vehicles alone;

- travelling at unusual hours (during school time, early in the morning or late at night);
- travelling long distances;
- unfamiliar with the local area or do not have a local accent;
- paying for journeys in cash or prepaid.

6.12 The Home Office is working with partners to raise awareness of county lines and has provided [material](#) to help taxi and private vehicle hire staff to identify victims and report concerns to protect those exploited through this criminal activity.

6.13 Drivers (or any person) should be aware of what to do if they believe a child or vulnerable person is at risk of harm. If the risk is immediate they should contact the police otherwise they should:

- use the local safeguarding process, the first step of which is usually to contact the safeguarding lead within the local authority;
- call Crime Stoppers on 0800 555 111.

Language proficiency

6.14 A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.

6.15 A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above.

7. Vehicle Licensing

7.1 As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

Criminality checks for vehicle proprietors

7.2 Enhanced DBS and barred list checks are not available for vehicle licensing. **Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the ‘fit and proper’ threshold.

7.3 However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.

7.4 A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant’s full consent has been given.

7.5 Private hire vehicle operator and vehicle licences may be applied for by a company or partnership; licensing authorities should apply the ‘fit and proper’ test to each of the directors or partners in that company or partnership. For this to be effective private hire vehicle operators and those to whom a vehicle licence should be required to advise the licensing authority of any change in directors or partners.

7.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas so other checks must be considered where and applicant has lived or worked overseas (see paragraph 4.34 - 4.36).

In-vehicle visual and audio recording – CCTV

7.7 Government has acknowledged the potential risk to public safety when passengers travel in taxis and private hire vehicles. It is unfortunately the case that no matter how complete the information available to licensing authorities is when assessing whether to issue any taxi or private hire vehicle licence, nor how robust the policies in place are and the rigor with which they are applied, it will never completely remove the possibility of harm to passengers by drivers.

7.8 The Department's view is that CCTV can provide additional deterrence to prevent this and investigative value when it does. The use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

7.9 All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.

7.10 While only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers. In addition, the evidential benefits of CCTV may increase the level of reporting of sexual offences. According to the [Crime Survey for England and Wales](#) only 17 percent of victims report their experiences to the police, 28 percent of rape or sexual assault victims indicated that a fear they would not be believed as a factor in them not reporting the crime. The evidential benefits CCTV could provide are therefore an important factor when considering CCTV in vehicles.

7.11 The mandating of CCTV in vehicles may deter people from seeking a taxi or private hire vehicle licence with the intent of causing harm. Those that gain a licence and consider perpetrating an opportunistic attack against a vulnerable unaccompanied passenger may be deterred from doing so. It is however unfortunately the case that offences may still occur even with CCTV operating.

7.12 CCTV systems that are able to record audio as well as visual data may also help the early identification of drivers that exhibit inappropriate behaviour toward passengers. Audio recording should be both overt (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or

drivers) consider it necessary). The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button.

- 7.13 Imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and will therefore require an appropriately strong justification and must be kept under regular review. More information and guidance on assessing the impacts of CCTV and on an authority mandating CCTV is annexed to this document (Annex – CCTV guidance).

Stretched Limousines

- 7.14 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as private hire vehicles, these vehicles may be used for transport to 'school proms' as well as for adult bookings. It is suggested that licensing authorities should approach such requests on the basis that these vehicles – where they have fewer than nine passenger seats - have a legitimate role to play in the private hire trade, meeting a public demand. It is the Department's view that it is not a legitimate course of action for licensing authorities to adopt policies that exclude limousines as a matter of principle thereby excluding these services from the scope of the private hire vehicle regime and the safety benefits this provides. A blanket policy of excluding limousines may create an unacceptable risk to the travelling public, as it may lead to higher levels of unsupervised operation. Public safety considerations are best supported by policies that allow respectable, safe operators to obtain licences on the same basis as other private hire vehicle operators.
- 7.15 Stretched large limousines which clearly seat more than eight passengers should not be licensed as private hire vehicles because they are outside the licensing regime for private hire vehicles. However, in some circumstances a vehicle with space for more than eight passengers can be licensed as a private hire vehicle where the precise number of passenger seats is hard to determine. In these circumstances, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than eight passengers, bearing in mind that refusal may encourage illegal private hire operation.

8. Private Hire Vehicle Operator Licensing

8.1 As with driver licensing, the objective in licensing private hire vehicle operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those that are granted a private hire vehicle operator also pose no threat to the public and have no links to serious criminal activity. Although private hire vehicle operators may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the driver licensing regime.

Criminality checks for private hire vehicle operators

8.2 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. **Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold.

8.3 However, it is important that authorities acknowledge that in many cases individuals that license as a private hire vehicle operator may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately

8.4 Refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence; this decision must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

8.5 A private hire vehicle operator licence may be applied for by a company or partnership; licensing authorities should apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective

private hire vehicle operators should be required to advise the licensing authority of any change in directors or partners.

- 8.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas. Further information on assessing the suitability of those that have spent extended periods in overseas is provided in paragraphs 4.34 - 4.36.

Booking and dispatch staff

- 8.7 Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle dispatcher decides which driver to send to a user, a position that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 8.8 Licensing authorities should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. **Licensing authorities should, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept.**
- 8.9 Operators should be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. DBS certificates provided by the individual should be recently issued when viewed, alternatively the operator could use a [responsible organisation](#) to request the check on their behalf. When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.
- 8.10 The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept, this will enable cross-referencing between the two records. A record that the operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested and sight of this recorded.
- 8.11 Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults. Operators should be required to evidence that comparable protections are applied by the company to which they outsource these functions.

8.12 Licensing authorities should also require operators or applicants for a licence to provide their policy on employing ex-offenders in roles that would be on the register as above. As with the threshold to obtaining a private hire vehicle operators' licence, those with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

Record keeping

8.13 Section 56 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#) requires private hire vehicle operators to keep records of the particulars of every booking invited or accepted, whether it is from the passenger or at the request of another operator. **Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:**

- the name of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.

8.14 This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement. It is suggested that booking records should be retained for a minimum of six months.

8.15 Private hire vehicle operators have a duty under data protection legislation to protect the information they record. The Information Commissioner's Office provides comprehensive on-line guidance on registering as a data controller and how to meet their obligations.

Use of passenger carrying vehicles (PCV) licensed drivers

8.16 PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver. **The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such**

as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.

- 8.17 Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

9. Enforcing the Licensing Regime

9.1 Implementing an effective framework for licensing authorities to ensure that as full a range of information made available to suitably trained decision makers that are supported by well-resourced officials is essential to a well-functioning taxi and private hire vehicle sector. These steps will help prevent the licensing of those that are not deemed 'fit and proper' but does not ensure that those already licensed continue to display the behaviours and standards expected.

Joint authorisation of enforcement officers

9.2 Licensing authorities should, where the need arises, jointly authorises officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area. An agreement between licensing authorities to jointly authorise officers enables the use of enforcement powers regardless of which authority within the agreement the officer is employed by and which issued the licence. This will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and drivers that are licensed by the other authority when they cross over boundaries. A model for agreeing joint authorisation is contained in the [LGA Councillors' handbook](#).

Setting expectations and monitoring

9.3 Licensing authorities should ensure that drivers are aware of the policies that they must adhere and are properly informed of what is expected of them and the repercussions for failing to do so. Some licensing authorities operate a points-based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time.

9.4 The provision of a clear, simple and well-publicised process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity (see paragraphs 4.29 - 4.33). This will provide a further source of intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.

Suspension and revocation of driver licences

9.5 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides a licensing authority with the ability to suspend or revoke a driver's licence on the following grounds: -

(a) that he has since the grant of the licence—

- (i) been convicted of an offence involving dishonesty, indecency or violence; or
- (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;
- (aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
- (b) any other reasonable cause

9.6 Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. [Guidance for licensing authorities](#) to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.

9.7 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.

9.8 A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.

9.9 New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.

9.10 A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

Annex – Assessment of Previous Convictions

Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is ‘fit and proper’ to hold a taxi or private hire vehicle licence. The following recommendations to licensing authorities on previous convictions reflect this.

Authorities must consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. The Department’s view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.

Crimes resulting in death

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

Exploitation

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence against the person

Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Possession of a weapon

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Sexual offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.

In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

Dishonesty

Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Drugs

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Motoring convictions

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

Drink driving/driving under the influence of drugs

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Using a hand-held device whilst driving

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

Information included	Type of check			
	Basic check	Standard DBS check	Enhanced DBS check	Enhanced DBS (including barred list) check
Unspent convictions	Yes	Yes	Yes	Yes
Unspent cautions ¹	Yes	Yes	Yes	Yes
Spent convictions ²	No	Yes	Yes	Yes
Spent cautions ^{1 & 2}	No	Yes	Yes	Yes
Additional police Information ³	No	No	Yes	Yes
Barred list(s) Information ⁴	No	No	No	Yes

1. Does not include fixed penalty notices, penalty notices for disorder or any other police or other out-of-court disposals.
2. Spent convictions and cautions that have become protected under the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975, as amended, are not automatically disclosed on any level of certificate. Further guidance is available [the DBS filtering guide](#).
3. This is any additional information held by the police which a chief police officer reasonably believes to be relevant and considers ought to be disclosed.
4. This is information as to whether the individual concerned is included in the children's or adults' barred lists maintained by the Disclosure and Barring Service (DBS).

Annex – CCTV Guidance

It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles will be responsible for the data – the data controller. It is important that data controllers fully consider concerns regarding privacy and licensing authorities should consider how systems are configured, should they mandate CCTV (with or without audio recording). For example, vehicles may not be exclusively used for business, also serving as a car for personal use - it should therefore be possible to manually switch the system off (both audio and visual recording) when not being used for hire. Authorities should consider the Information Commissioner's view on this matter that, in most cases, a requirement for continuous operation is unlikely to be fair and lawful processing of personal data.

The Home Office '[Surveillance Camera Code of Practice](#)' advises that government is fully supportive of the use of overt surveillance cameras in a public place whenever that use is:

- in pursuit of a legitimate aim;
- necessary to meet a pressing need;
- proportionate;
- effective, and;
- compliant with any relevant legal obligations

The Code also sets out 12 guiding principles which, as a 'relevant authority' under section 33(5) of the [Protection of Freedoms Act 2012](#), licensing authorities must have regard to. It must be noted that, where a licence is granted subject to CCTV system conditions, the licensing authority assumes the role and responsibility of 'System Operator'. The role requires consideration of all guiding principles in this code. The failure to comply with these principles may be detrimental to the use of CCTV evidence in court as this may be raised within disclosure to the Crown Prosecution Service and may be taken into account.

The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '[Passport to Compliance](#)' which provides guidance on the necessary stages when planning, implementing and operating a surveillance camera system to ensure it complies with the code. The Information Commissioner's Office (ICO) has also published a [code of practice](#) which, in this context, focuses on the data governance requirement associated with the use of CCTV such as data retention and disposal, which it is important to follow in order to comply with the data protection principles. The SCC provides a [self-assessment tool](#) to assist operators to ensure compliance with the principles set out in the Surveillance Camera Code of Practice. The SCC also operate a [certification scheme](#); authorities that obtain this accreditation are able to clearly demonstrate that their systems conform to the SCC's best practice and are fully compliant with the Code and increase public confidence that any risks to their privacy have been fully considered and mitigated.

The [Data Protection Act 2018](#) regulates the use of personal data. Part 2 of the Data Protection Act applies to the general processing of personal data, and references and supplements the General Data Protection Regulation. Licensing authorities, as data controllers, must comply with all relevant aspects of data protection law. Particular attention should be paid to the rights of individuals which include the right to be informed, of access

and to erasure. The ICO has provided detailed [guidance](#) on how data controllers can ensure compliance with these.

It is a further requirement of data protection law that before implementing a proposal that is likely to result in a high risk to the rights and freedoms of people, an impact assessment on the protection of personal data shall be carried out. The ICO recommends in [guidance](#) that if there is any doubt as to whether a Data Protection Impact Assessment (DPIA) is required one should be conducted to ensure compliance and encourage best practice. A DPIA will also help to assess properly the anticipated benefits of installing CCTV (to passengers and drivers) and the associated privacy risks; these risks might be mitigated by having appropriate privacy information and signage, secure storage and access controls, retention policies, training for staff how to use the system, etc.

It is essential to ensure that all recordings made are secure and can only be accessed by those with legitimate grounds to do so. This would normally be the police if investigating an alleged crime or the licensing authority if investigating a complaint or data access request. Encryption of the recording to which the licensing authority, acting as the data controller, holds the key, mitigates this issue and protects against theft of the vehicle or device. It is one of the guiding principles of data protection legislation, that personal data (including in this context, CCTV recordings and other potentially sensitive passenger information) is handled securely in a way that 'ensures appropriate security', including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

All passengers must be made fully aware if CCTV is operating in a vehicle. Given that audio recording is considered to be more privacy intrusive, it is even more important that individuals are fully aware and limited only to occasions when passengers (or drivers) consider it necessary. The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button. As well as clear signage in vehicles, information on booking systems should be introduced. This might be text on a website, scripts or automated messages on telephone systems; the Information Commissioner's Office (ICO) has issued guidance on privacy information and the right to be informed on its website.

Annex - Staying Safe: Guidance for Passengers

Licensing authorities should provide guidance to assist passengers in identifying licensed vehicles and the increased risks of using unlicensed vehicles. The guidance might include advice on:

- how to tell if a taxi or private hire vehicle is licensed.

Educate the public in the differences between taxis and private hire vehicles e.g.:

- a taxi can be flagged down or pre-booked.
- a private hire vehicle that has not been pre-booked should not be used as it will not be insured and may not be licensed.
- what a private hire vehicle should look like e.g. colour, signage, licence plates etc.
- the benefit of pre-booking a return vehicle before going out.
- arrange to be picked up from a safe meeting point.
- requesting at the time of booking what the fare is likely to be.

When using a private hire vehicle, passengers should always:

- book with a licensed operator.
- confirm their booking with the driver when s/he arrives.
- note the licence number.
- sit in the back, behind the driver.
- let a third party know details of their journey.

When using a taxi, passengers should where possible:

- use a taxi rank and choose one staffed by taxi marshals if available.