



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

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