

REPORT TO THE LICENSING COMMITTEE

Date of Meeting: 27 October 2020

Report of: Service Lead – Environmental Health and Community Safety

Title: The Statutory Taxi and Private Hire Vehicle Standards

Is this a Key Decision?

No

Is this an Executive or Council Function?

Licensing is a Council function delegated to the Licensing Committee

1. What is the report about?

- 1.1 To inform members of the Licensing Committee of the recently published 'Statutory Taxi and Private Hire Vehicle Standards' issued by the Department for Transport (DfT) and consider proposals to meet the requirements of the document.

2. Recommendations:

- 2.1 The Licensing Committee notes the content of the statutory standards
- 2.2 It is recommended that at the Hackney Carriage and Private Hire Policy's next review date be set as October 2025 at the latest.
- 2.3 That the Licensing Committee considers the following changes to the Hackney Carriage and Private Hire Policy:-
- a) Appendix E is amended to state that 'no licence will be issued to any individual that appears on either the children or adult barred lists.'
 - b) Appendix L is amended to require a basic disclosure from the DBS and that a check is undertaken annually for private hire operators, coming into effect for all new applications and renewals from February 2021 and all existing operators by 1 January 2022.
 - c) Appendix L is amended to require Private Hire Operators to hold a register of all the staff that will take bookings or dispatch vehicles to come into effect for all operators from 1 January 2022.
 - d) Appendix L(2) is expanded to require Private Hire Operators to collect the following information as part of their records from 1 January 2022
 - The name of the driver;
 - The name of any individual that responded to the booking request;
 - The name of any individual that dispatched the vehicle

- e) Appendix L to be amended to require Private Hire Operators to conduct DBS checks on all call handling and dispatching staff as well as to have a policy on employing ex-offenders. All records must also be made available to the Licensing Authority upon request. These condition will come into effect for all operators from 1 January 2022.
- f) Section 4.5 along with Appendices B, L and P are amended to require all drivers and operators applications and renewals from 1 February 2021 to be conducted through the update service.

2.4 The licensing committee considers setting up a working group through the taxi forum to start meeting in 2021 to consider:

- a) A review of disciplinary process to look at the feasibility of a points based system being added to the policy
- b) Looking at further quality standards for both Hackney Carriage and Private Hire vehicles to consider such matters as CCTV, vehicle emissions, consumer safety and identification and training.

3. Reasons for the recommendation:

3.1 The Statutory Standards set out a range of robust measures to protect taxi and private hire vehicle passengers, particularly those most vulnerable. Government advice is that licensing authorities must work together to ensure that, above all else, the taxi and private hire vehicle services the public use are safe.

4. What are the resource implications including non-financial resources.

- 4.1 Taxi and Private Hire Licensing fees set must meet the cost of delivering the licensing regime. Any resource implications arising from this report can be met from the fee structure set.
- 4.2 Specifically, the proposal to subscribe to the NR3 National Register of Taxi and Private Hire Refusals and Revocations would entail additional costs in the region of £2000 per annum, which can be met by the current fee structure.

5. Section 151 Officer comments:

The contents of the report are noted. Any surplus or deficit from vehicle licensing is transferred to an earmarked reserve and has no impact on the Council Taxpayer. Finance will support the service in monitoring the costs and income to ensure that they are closely matched.

6. What are the legal aspects?

6.1 Section 177(1) of the Policing and Crime Act 2017 states that '[t]he Secretary of State may issue guidance to public authorities as to how their licensing functions under taxi and private hire vehicle legislation may be exercised so as to protect children, and vulnerable individuals who are 18 or over, from harm'. The Secretary of State for Transport published the attached guidance, 'Statutory Taxi and Private Hire Vehicle Standards' in July 2020. Section 177(4) states that '[a]ny public authority which has licensing functions under taxi and private hire vehicle legislation must have regard to

any guidance issued under this section.’ Therefore, Licensing authorities are under a legal duty to have regard to the guidance.

- 6.2 In publishing this document, The Secretary of State for Transport stated that ‘licensing authorities will be expected to fully implement these measures as soon as possible. The department will closely monitor progress, work with authorities not meeting their responsibilities and look to introduce legislation if licensing authorities fail to adopt the standards and update their operations.’
- 6.3 Paragraph 2.8 of the Standards states ‘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.’

7. Monitoring Officer’s comments:

The Monitoring Officer has no additional comments. The legal basis for the implementation of the standards is set out in paragraph 6 in relation to ‘legal aspects’.

8. Report details:

- 8.1 For ease and to avoid detailed commentary on every aspect covered in the statutory standards, Appendix A contains a table detailing the requirements made and officer’s comments with respect to those requirements. Only those aspects that require further consideration by the Licensing Committee are detailed in this report.
- 8.2 One of the main requirements of the revised standards, is that Licensing Authorities should have a cohesive taxi and private hire policy document with a minimum review of every 5 years. As members of the Licensing Committee are aware, the authority has already produced a consolidated policy document that can be used by the Committee, Officers, licensees and members of the public as a single point of reference. As the document is a working one, the committee has revised it on a number of occasions over the last 5 years. It is recommended that a review date be set of October 2025 at the latest, as a result of this report.
- 8.3 The Statutory Standards recommends that where there is 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, this should lead to an automatic referral by the licensing authority to the DBS. It is therefore recommended that section 14 of the Council’s Policy be amended to include reference that this will take place.
- 8.4 A further requirement is that all licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees. Whilst the service has systems in place, it is currently undergoing a change of software which will enhance the authority’s recording and analysis capability further. This project is anticipated to be completed by March 2021.

- 8.5 The standards require that all decision makers are adequately trained in safeguarding, equalities and diversity. In this context decision makers refers not only to officers but also members sitting on the licensing committee. A review of the safeguarding and equalities and diversity policies has been conducted and will be presented to Council in December. The changes not only include the necessary reference to the new standards, but also the requirement for officers and members to receive the necessary training, some of which is already taking place.
- 8.6 Another requirement is that Licensing Authorities should not, as part of their policies, issue a licence to any individual that appears on either the children or adult barred lists. Therefore it has been recommended that Appendix E is amended accordingly.
- 8.7 It is recommended that Licensing Authorities should require a basic disclosure from the DBS and that a check is undertaken annually for private hire operators. It is therefore recommended to amend Appendix L of the authority's policy to come into effect for all new applications and renewals from February 2021 and all existing operators by 1 January 2022.
- 8.8 Licensing authorities should, as a condition of granting an operator licence, require a register of all the staff that will take bookings or dispatch vehicles. It is recommended that Appendix L is amended to come into effect for all operators from 1 January 2022.
- 8.9 The standards have set out a list of minimum records that private hire vehicle operators should record for each booking. Whilst the authority's current policy details already contains the majority of records required, it will be necessary to amend Appendix L(2) to include:
- The name of the driver;
 - The name of any individual that responded to the booking request;
 - The name of any individual that dispatched the vehicle

Whilst it is believed that the majority of operators in the city are already recording this information, it is proposed that this should come into effect for all operators from 1 January 2022, to allow time for the necessary technology changes to be made to accommodate this request.

- 8.10 The standards recommend that Operators should conduct basic DBS checks and have a policy on employing ex-offenders in call handling and dispatching roles. Operators have expressed concerns over how they would implement such a condition their licences. Whilst this would be for them to seek their own advice with regard to implementation and dealing with any human resource issues that may arise, it is appreciated that this policy change will take some time to implement. Therefore it is recommended that Appendix L is amended to include these as a condition and that records need to be kept and provided for inspection by the licensing authority upon request, but that it does not come into effect until 1 January 2022.
- 8.11 The standards ask Licensing Authorities to consideration of the adoption of the DBS Update service as a mandatory condition of the authority's policy. There are many benefits both to the authority of adopting such a measure such as real time

information and cost saving for drivers who are required to conduct multiple DBS checks. It is therefore recommended that section 4.5 along with Appendices B, L and P are amended to require all drivers and operators applications and renewals from 1 February 2021 to be conducted through the update service. All Driver's, Operators and Proprietors will have moved across to this set up within 3 years at the latest.

- 8.12 The standard recommends that tools such as the NR3 National Register of Taxi and Private Hire Refusals and Revocations, are used to share information with other Licensing authorities, and that this register should be consulted for new applications as this can reduce the risk of non-disclosure of relevant information. The Service already asks applicants to detail any previous refusal or revocations, and details of licences held elsewhere, but it is felt that the recommendation to also use and consult NR3 would be an additional safeguard. It is therefore proposed that we subscribe and implement this service by 31st March 2021.
- 8.12 There are other requirements in the standards relating to CCTV, consumer safety, training and the adoption of a points based system that will require further consideration and discussion with the trade prior to formal consideration for adoption. In addition with the city's ambitions with respect to climate change, it is prudent to have a discussion on further emissions standards that can be achieved by 2030. Therefore a recommendation is made to set up a working group which would convene in 2021 to consider policy developments in these areas.

9. How does the decision contribute to the Council's Corporate Plan?

- 9.1 The Hackney Carriage and Private Hire contributes to all aspects of the Council's Corporate Plan.

10. What risks are there and how can they be reduced?

- 10.1 Taxis and Private Hire licensing are a high risk licensing activity, with the primary purpose of this licensing regime being to maintain public safety. In terms of passengers this risk can be seen in cases of abuse, exploitation and sexual crimes.
- 10.2 Whilst unfortunately no Licensing Authority can eliminate such risks entirely, having a robust set of policies and maintaining high licensing standards will help safeguard the most vulnerable in our city and by extension the wider public.

11. Equality Act 2010 (The Act)

- 11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:
- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
 - advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
 - foster good relations between people by tackling prejudice and promoting understanding.

- 11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.
- 11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.
- 11.4 In recommending this proposal no potential impact has been identified on people with protected characteristics as determined by the Act because the report is for information only.

12. Carbon Footprint (Environmental) Implications:

- 12.1 There are no climate change nor environmental implications arising from recommendations of this report.

13. Are there any other options?

- 13.1 As stated above at paragraph 6 concerning legal aspects, section 177 of the Policing and Crime Act 2017, '[a]ny public authority which as a licensing function under taxi and private hire vehicle legislation must have regard to any guidance issued under this section'. Accordingly, there is a legal duty for the Licensing Committee to give have regard to the Statutory Taxi and Private Hire Vehicle Standards.

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Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

- Statutory Taxi and Private Hire Vehicle Standards, Department for Transport (Appendix B)
- Hackney Carriage and Private Hire Policy, Exeter City Council (highlighted to indicate proposed amendments- Appendix C)
- Police and Crime Act 2017

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Appendix A

Measures contained within the Statutory Taxi and Private Hire Vehicle Standards

	Requirement	Response	Timescale for completion
1.	All licensing authorities should publish their considerations of the statutory standards	Report to go to Licensing Committee on 27 October 2020	27 October 2020
2.	The Licensing Authority should have a cohesive taxi and private hire policy document	Licensing Authority has one. This has been in place since 2015 and has undergone regular revision.	Completed with ongoing revision
3.	There should be a regular review of the licensing policy with a minimum review of every 5 years	Recommendation to committee that a review date for the next full revision of the policy should be set no later than October 2025.	27 October 2020
4.	Importance of internal whistle blowing policy with regular staff reminders	Whistle blowing policy in place and regular reminders sent to staff by Internal Audit.	Completed
5.	Need for consultation on major changes of policy	Report to highlight where this has occurred and to make suggestions around future consultation with respect to vehicle standards and disciplinary standards.	27 October 2020
6.	Any changes in policy should lead to an overview of the licences issued	This already takes place. Committee report on 27 October highlights further reviews that will need to take place.	Ongoing
7.	There should be regular liaison with the police to ensure effective information sharing	This is in place and ongoing.	Ongoing
8.	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	Section 14 of the Taxi and Private Hire Policy to be amended accordingly. Currently this would already happen, but the proposal is to formalise this through specific reference in Policy.	27 October 2020 committee for implementation from January
9.	Information sharing protocols in place with the police	Current information sharing protocol is in place	Completed
10.	Requirement to disclose if previous licences held with other authorities have been revoked or suspended	This is already on application form with notification of the consequence of not completing the application form correctly.	Completed
11.	Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of non-	NR3 is a national database for the refusal and revocation of Hackney carriage/ Private Hire licences. It is proposed that	To come into effect as a check for all new driver applications with

	disclosure of relevant information by applicants.	the Licensing Authority sign up to this scheme and undertake the piece of work to upload relevant matters.	effect from 31 st March 2021.
12.	All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.	The service has a current system in place which will be enhanced in early 2021 when the service transfers to a new IT system	31 March 2021
13.	Training of decision makers – need for licensing committee members and licensing staff to attend training	Safeguarding and Equalities and Diversity policies have been reviewed and are being presented to Council in December for adoption. Training on safeguarding has taking place and further training is being booked in	December 2020
14.	Licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocations of a licence.	There has been a clear process in place for a number of years which is outlined in the Council's constitution	Completed
15.	Licensing Authorities should not, as part of their policies, issue a licence to any individual that appears on either the children or adult barred lists	Appendix E of the policy to be altered to state that 'no licence will be issued to any individual that appears on either the children or adult barred lists.'	27 October 2020
16.	Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually for vehicle proprietors	Vehicle proprietors are already required to hold a licence with the authority which means that they are subject to an enhanced DBS check	Completed
17.	Consideration of a requirement for CCTV in all vehicles	Proposal to have a working group that looks a higher quality standards with a view to a consultation paper going to committee in 2022. CCTV is already mandatory across the Hackney carriage fleet.	December 2022
18.	Policy covers the licensing of stretched limousines	The current policy already covers such applications	Completed
19.	Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually for private hire operators	Recommendation made to amend Appendix L to come into effect for all new applications and renewals from February 2021 and all existing operators by 1 January 2022	27 th October committee for implementation from February 2021.
20.	Licensing authorities should, as a condition of granting an operator licence, require a register of all the staff that will	Recommendation made to amend Appendix L to come into effect for all operators from 1 January 2022	Recommendation made for adoption on 27 th October 2020, to come

	take bookings or dispatch vehicles.		into effect for all operators from 1 January 2022
21.	<p>Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:</p> <ul style="list-style-type: none"> • 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 	<p>The current policy requires records to be kept recording the following information for each booking:</p> <ul style="list-style-type: none"> • the date of the booking • the name and address of the hirer iii the time of pick-up • the point of pick-up • the destination • the time at which a driver was allocated to the booking • the plate number (or other identification) of the vehicle allocated <p>It is recommended that Appendix L(2) is amended to include:</p> <ul style="list-style-type: none"> • The name of the driver; • The name of any individual that responded to the booking request; • The name of any individual that dispatched the vehicle 	<p>Recommendation made for adoption in October 2020 to come into effect for all operators from 1 January 2022</p>
22.	Licensing authorities should, where the need arises, jointly authorises officers from other authorities so that compliance and enforcement can be taken against licensees from outside their area	The Service Lead – Environmental Health and Community Safety already has delegated authority to do this where needed	Completed
23.	Licence holders should notify the licensing authority within 48 hours of arrest	In current policy	Completed
24.	Regular liaison should take place with neighbouring authorities	Exeter City Council plays an active part in the Devon Licensing Officers Group.	Completed
25.	Guidance for passengers wishing to make complaints against drivers should be contained on the council's website	The council's webpage has been refreshed with a firmstep form created to make the process easier	Completed
26.	Info should be displayed in vehicles about how to complain to Licensing Authority	Information on this is displayed on the internal licence plate affixed to the	Completed

		front window of licenced vehicles.	
27.	Operators should conduct basic DBS checks and have a policy on employing ex-offenders in roles.	Recommendation made to amend Appendix L to require operators to conduct DBS checks on all call handling and dispatching staff as well as to have a policy on employing ex-offenders. All records must also be made available to the Licensing Authority upon request.	27 th October committee for implementation from 1 January 2022
28.	Mandatory training for drivers on safeguarding and equality awareness.	This policy has already been implemented by the Licensing Committee.	Completed and ongoing
29.	Consideration of the adoption of the DBS Update service as a mandatory condition of the authority's policy.	Recommendation made for adoption on 27 th October 2020 to come into effect for all new applications and renewals from February 2021	27 th October committee for implementation from February 2021
30.	Review of disciplinary process to look at the feasibility of a points based system.	Proposal of a working group through the taxi forum to consider this further	Proposal to the 27 th October Committee