

Thurrock - An ambitious and collaborative community which is proud of its heritage and excited by its diverse opportunities and future

Licensing Committee

The meeting will be held at **7.00 pm** on **13 March 2019**

Council Chamber, Civic Offices, New Road, Grays, Essex, RM17 6SL

Membership:

Councillors Ben Maney (Chair), Tony Fish (Vice-Chair), Qaisar Abbas, Alex Anderson, Gary Collins, Leslie Gamester, Graham Hamilton, Steve Liddiard, David Potter, Joycelyn Redsell, Barbara Rice, Elizabeth Rigby, Sue Sammons, Sue Shinnick and Pauline Tolson

Substitutes:

Councillors Barry Johnson, Sue MacPherson, Bukky Okunade, Gerard Rice and Lynn Worrall

Agenda

Open to Public and Press

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To approve as a correct record the minutes of the Licensing Committee meeting held on 3 October 2018.	
3. Items of Urgent Business	
To receive additional items that the Chair is of the opinion should be considered as a matter of urgency, in accordance with Section 100B (4) (b) of the Local Government Act 1972	
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Queries regarding this Agenda or notification of apologies:

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Direct.Democracy@thurrock.gov.uk

Agenda published on: **5 March 2019**

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DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF

Breaching those parts identified as a pecuniary interest is potentially a criminal offence

Helpful Reminders for Members

- *Is your register of interests up to date?*
- *In particular have you declared to the Monitoring Officer all disclosable pecuniary interests?*
- *Have you checked the register to ensure that they have been recorded correctly?*

When should you declare an interest at a meeting?

- **What matters are being discussed at the meeting?** (including Council, Cabinet, Committees, Subs, Joint Committees and Joint Subs); or
- If you are a Cabinet Member making decisions other than in Cabinet **what matter is before you for single member decision?**



Does the business to be transacted at the meeting

- relate to; or
- likely to affect

any of your registered interests and in particular any of your Disclosable Pecuniary Interests?

Disclosable Pecuniary Interests shall include your interests or those of:

- your spouse or civil partner's
- a person you are living with as husband/ wife
- a person you are living with as if you were civil partners

where you are aware that this other person has the interest.

A detailed description of a disclosable pecuniary interest is included in the Members Code of Conduct at Chapter 7 of the Constitution. **Please seek advice from the Monitoring Officer about disclosable pecuniary interests.**

What is a Non-Pecuniary interest? – this is an interest which is not pecuniary (as defined) but is nonetheless so significant that a member of the public with knowledge of the relevant facts, would reasonably regard to be so significant that it would materially impact upon your judgement of the public interest.

Pecuniary

If the interest is not already in the register you must (unless the interest has been agreed by the Monitoring Officer to be sensitive) disclose the existence and nature of the interest to the meeting

If the Interest is not entered in the register and is not the subject of a pending notification you must within 28 days notify the Monitoring Officer of the interest for inclusion in the register

Unless you have received dispensation upon previous application from the Monitoring Officer, you must:

- **Not participate or participate further in any discussion of the matter at a meeting;**
- **Not participate in any vote or further vote taken at the meeting; and**
- **leave the room while the item is being considered/voted upon**

If you are a Cabinet Member you may make arrangements for the matter to be dealt with by a third person but take no further steps

Non- pecuniary

Declare the nature and extent of your interest including enough detail to allow a member of the public to understand its nature



You may participate and vote in the usual way but you should seek advice on Predetermination and Bias from the Monitoring Officer.

Our Vision and Priorities for Thurrock

An ambitious and collaborative community which is proud of its heritage and excited by its diverse opportunities and future.

1. **People** – a borough where people of all ages are proud to work and play, live and stay
 - High quality, consistent and accessible public services which are right first time
 - Build on our partnerships with statutory, community, voluntary and faith groups to work together to improve health and wellbeing
 - Communities are empowered to make choices and be safer and stronger together
2. **Place** – a heritage-rich borough which is ambitious for its future
 - Roads, houses and public spaces that connect people and places
 - Clean environments that everyone has reason to take pride in
 - Fewer public buildings with better services
3. **Prosperity** – a borough which enables everyone to achieve their aspirations
 - Attractive opportunities for businesses and investors to enhance the local economy
 - Vocational and academic education, skills and job opportunities for all
 - Commercial, entrepreneurial and connected public services

Minutes of the Meeting of the Licensing Committee held on 3 October 2018 at 7.00 pm

Present:	Councillors Ben Maney (Chair), Tony Fish (Vice-Chair), Qaisar Abbas, Leslie Gamester, Graham Hamilton, David Potter and Elizabeth Rigby
Apologies:	Councillors Gary Collins, Garry Hague, Steve Liddiard, Sue Shinnick and Pauline Tolson
In attendance:	Paul Adams, Principal Licensing Officer Simon Scrowther, Legal Representative Kallum Davies, Democratic Services Officer

Before the start of the Meeting, all present were advised that the meeting may be filmed and was being recorded, with the audio recording to be made available on the Council's website.

1. Minutes

The Minutes of the Licensing Committee meeting held on 14 February 2018 were approved as a true and correct record.

2. Items of Urgent Business

There were no items of urgent business.

3. Declaration of Interests

Councillor Elizabeth Rigby declared a non-pecuniary interest in relation to item 5 on the agenda, in that she was a Veterinarian by occupation.

4. Changes to Animal Welfare Licensing

Paul Adams, Principal Licensing Officer introduced the report which highlighted changes brought about by Central Government, and had taken effect on 1 October 2018.

When the Chair invited questions, Councillor Redsell asked why the report indicated there had been only one Riding School in Thurrock, when she had personally been aware of at least three. The Officer stated that only those where riding services were offered required a licence, so stables would not be included. The Officer further invited Councillor Redsell to make those she believed to be omitted known to him.

Councillor Redsell asked what Thurrock Council considered to be a Dangerous Animal. The Officer stated that there is a Schedule of strict

definitions and Thurrock applies this criterion only to what is listed on the Schedule.

Councillor Hamilton asked if Donkey rides such as at the Orsett Show would now require a licence. The Officer stated that these would now be licenced but that it would be the place at which the animals were based which would need the licence and not the site on which they operate.

Councillor Hamilton asked what the allowed timeframe would be in which an organisation would be required to obtain a licence. The Officer stated that this was prescribed by the guidance accompanying the legislation.

Councillor Gamester asked if the fees presented would include the cost of any undeclared inspection during the term of the licence. The Officer stated that if further inspection was required then this would be charged separately.

Councillor Rigby asked if "Animal Boarding" would include home boarding. The Officer stated that it would, in addition to dog "Day-Care".

Councillor Rigby asked if there was a number of litters per year that would differentiate between breeders and private individuals. The Officer stated that only professional breeders would need a licence, but there was no set number of litters. Councillor Rigby further asked what the penalty would be for failing to obtain a licence. The Officer advised he would find this out and advise the Councillor directly.

Councillor Abbas asked why an appellant would need to pay an inspection fee if their appeal was upheld. The Officer Stated that the appeal was free but there was a fee for another inspection where required, adding that if the appeal was upheld, the fee would be refunded.

Councillor Abbas asked if the fees would increase on year. The Officer stated that Thurrock would retain the ability to adjust its fees as required so long as it remained on a cost recovery basis.

Councillor Gamester asked if residents whom took in stray cats with a view to rehoming them would require licensing. The Officer stated they would not as they were not buying and selling the animals.

Councillor Redsell asked if this change in Law would prevent instances of pets being sold in car parks and other unscrupulous means. The Officer stated that it would not, but that there was separate legislation under consideration in this regard.

Councillor Hamilton asked if the breeding of cats was considered under the breeding legislation. The Officer advised that it did not apply to cats other than for the boarding of cats.

The Chair asked if the new approach was based solely on animal welfare. The Officer said that it would be 95% welfare focused, with some

consideration to waste disposal etc. The Chair then asked if any consideration would be given to the appropriateness of premises. The Officer advised that this would not be the case beyond a mandatory minimum space per dog, but that this would be covered by existing Planning Legislation. Simon Scrowther added that existing tools around appropriateness of premises would not be diminished.

The Chair then enquired if the star rating would be made public, as with food hygiene ratings. The officer advised that publishing this was a requirement of the new guidance. The Chair further asked if there was an option for more than one visit per year if it was felt necessary. The Officer stated that one per year was the minimum for yearly licenses, and one per three years for five star businesses who had been granted a three year licence. The Officer added that there was an option to conduct more if required.

Lastly the Chair asked if the Council had discretion in what conditions it could impose upon a license. The Officer stated that the conditions available to the Council were prescriptive and there was no discretion in this regard.

RESOLVED

1. The Licensing Committee recommend to Full Council:

- **To set the fees and charges with respect to the Animal Welfare (Licensing of Activities Involving Animals) Regulations 2018 as set out in table 1 of Appendix 1 for the period of 1 October 2018.**
- **Approved the procedure for determining an appeal against a risk rating following the inspection/renewal of an operator as set out in Appendix 3.**

2. Noted the Scheme of Delegation as set out in table 2 of Appendix 2.

5. Film Classification Report

The Legal Representative, Simon Scrowther, left the meeting at 7.44pm.

The Officer Paul Adams, Principal Licensing Officer introduced the report and explained that it had come about due to a rare occurrence of the Local Authority needing to exercise its powers in respect of film licensing. The Officer stated that in twelve years the authority had done this on only two occasions, and as such there was no formally documented process.

The Chair opened to questions and Councillor Fish stated that he understood the reason for Film Licensing was essentially for Child Protection. With that in mind the Councillor asked if the guidance from the British Board for Film Classification (BBFC) included a list of “activities” in films which children should not see. The Officer stated that there was such a list but it was not determined by the activities depicted alone, rather a combination of the nature, severity and frequency of the depiction.

Councillor Potter asked if these regulations extended to the public displaying of TV shows. The Officer stated that it would apply to anything pre-recorded, but not to live TV.

Councillor Gamester enquired what separated Art Exhibits from licensable exhibitions as he was aware of some Art Exhibitions which bordered on the obscene. The Officer stated that there was separate legislation in this regard.

Councillor Hamilton stated he was concerned that the advent of personal devices such as phones and tablets threatened to undermine the efforts of licensing as technology progressed.

The Chair stated that it had been his belief the Prevent strategy would play a part in this field, as extremist content could now be made and displayed readily. The Officer advised that all Licensing Officers in Thurrock had received training on the Prevent Strategy and were aware of their duties in this respect.

RESOLVED

The Licensing Committee agreed to the procedure for the classification of films as set out in Appendix 1.

6. Applications Received Report

The Chair asked if Members noted the contents of the Applications Received Report.

RESOLVED

The Licensing Committee noted the contents of the report.

The meeting finished at 8.00 pm

Approved as a true and correct record

CHAIR

DATE

Any queries regarding these Minutes, please contact
Democratic Services at Direct.Democracy@thurrock.gov.uk

13 March 2019		ITEM: 5
Licensing Committee		
Guidance on Determining the Suitability of Applicants and Licensees for Hackney Carriage and Private Hire Licences		
Wards and communities affected: All		Key Decision: Key
Report of: Paul Adams, Joint Licensing Manager		
Accountable Assistant Director: Andy Millard, Assistant Director of Planning, Transportation and Public Protection.		
Accountable Director: Steve Cox, Corporate Director of Place		
This report is Public		

Executive Summary

The Institute of Licensing has produced in partnership with the Local Government Association (LGA), Lawyers in Local Government (LLG) and the National Association of Licensing and Enforcement Officers (NALEO), guidance on determining the suitability of applicants and licensees in the hackney carriage and private hire trades.

This report is to consider that guidance with a view to reviewing the Councils Statement of Policy and Guidelines relating to the relevance of Convictions, Formal / Simple Cautions, Complaints and/or other matters.

1. Recommendation(s)

- 1.1 **That the Licensing Committee considers the guidance and agrees for the Councils Statement of Policy and Guidelines relating to the relevance of Convictions, Formal / Simple Cautions, Complaints and/or other matters to be reviewed and amended in line with the guidance. The revised policy to then go for public consultation, with the consultation response to be returned to this committee for consideration.**

2. Introduction and Background

- 2.1 The Institute of Licensing has produced in partnership with the Local Government Association (LGA), Lawyers in Local Government (LLG) and the National Association of Licensing and Enforcement Officers (NALEO), guidance on determining the suitability of applicants and licensees in the

hackney carriage and private hire trades. A copy of the draft guidance is attached as **Appendix 1.**

- 2.2 Thurrock Council has a Statement of Policy and Guidelines relating to the relevance of Convictions, Formal / Simple Cautions, Complaints and/or other matters, which was last reviewed in April 2016. A copy is attached as **Appendix 2.**

3. Issues, Options and Analysis of Options

- 3.1 The current policy is only relevant for Hackney Carriage and Private Hire Drivers, and does not include Private Hire Operators or Vehicle Proprietors. It is intended as part of the review to extend the policy to encompass these two other licence types.
- 3.2 The guidance is broadly similar to the current policy; it does simplify the list of offences and reflects the changes in penalties particularly around motoring convictions involving using hand-held telephones or other similar devices.
- 3.3 If members are in agreement with revising the Council's Policy in line with the guidance, the reviewed policy will be subject to public consultation, with all responses and the revised policy coming back to this committee for consideration before adoption.

4. Reasons for Recommendation

- 4.1 Responses to consultation will need to be considered before Council approves amendments to the policy.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 There is no statutory requirement for consultation in relation to this matter, however good practice recommends consultation, allowing licence holders to respond to the changes.

6. Impact on corporate policies, priorities, performance and community impact

None

7. Implications

7.1 Financial

Implications verified by: **Laura Last**
Management Accountant

There are no direct financial implications arising from this report.

7.2 Legal

Implications verified by: **Simon Scrowther**
Principal Solicitor – Litigation and Employment

There are no legal implications of this report.

7.3 Diversity and Equality

Implications verified by: **Roxanne Scanlon**
Community Engagement and Project Monitoring Officer

Consultation on a revised policy will allow for views of the community to be considered against the public protection responsibility.

7.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None

8. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- None

9. Appendices to the report

- Appendix 1 –IOL Guidance on Determining the Suitability of Applicants and Licensees in the Hackney Carriage and Private Hire Trades.
- Appendix 2 – Statement of Policy and Guidelines relating to the relevance of Convictions, Formal / Simple Cautions, Complaints and/or other matters.

Report Author:

Paul Adams
Joint Licensing Manager
Licensing Team, Public Protection

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Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades



April 2018

 Institute of Licensing

Produced by the Institute of Licensing in partnership with:

 **LLG**
Lawyers in Local Government

 **NALEO**

 **Local Government Association**

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Foreword

The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must be able to trust the driver. Are they honest? Are they competent? Are they safe? Are they trustworthy? When we transact with others, we usually have time and opportunity to make such assessments. When we transact with taxi drivers, we don't. Therefore, we must, and do, rely on the licence as the warranty of the driver's safety and suitability for the task at hand.

It follows that a licensing authority has an onerous responsibility. In making decisions regarding grant and renewal of licences it is, in effect, holding out the licensee as someone who can be trusted to convey the passenger from A to B in safety. That passenger may be you, or your elderly mother, or your teenage daughter, or a person who has had too much to drink, or who is vulnerable for a whole host of other reasons.

Everybody working in this field should acquaint themselves with the facts of the Rotherham case, which stands as a stark testament to what can happen when licensing performs its safeguarding role inadequately. But the extremity of that appalling story should not distract us from the job of protecting the public from more mundane incompetence, carelessness or dishonesty. The standards of safety and suitability do not have to be set as a base minimum. To the contrary, they may be set high, to give the public the assurance it requires when using a taxi service. It is good to know that one's driver is not a felon. It is better to know that he or she is a dedicated professional.

Crucially, this is not a field in which the licensing authority has to strike a fair balance between the driver's right to work and the public's right to protection. The public are entitled to be protected, full stop. That means that the licensing authority is entitled and bound to treat the safety of the public as the paramount consideration. It is, after all, the point of the exercise.

Therefore, this guidance is to be welcomed. It rightly emphasises that any circumstance relating to the licensee is potentially relevant, provided of course that it is relevant to their safety and suitability to hold a licence. It provides useful and authoritative guidelines to licensing authorities as to how they ought to approach their important task of making determinations about the safety and suitability of drivers and operators.

While, of course, licensing is a local function, it seems absurd that precisely the same conduct might result in a short period without a licence in one district, and a much longer period in a neighbouring district. If a driver is suitable in district A, they are surely suitable in district B, and vice versa. If, as is hoped, this guidance becomes widely adopted, this will result in a degree of national uniformity, which serves the public interest in consistency, certainty and confidence in the system of licensing. Adherence to the guidance may also provide protection to licensing authorities on appeal.

The guidance is therefore commended to licensing authorities. It is hoped that, in due course, it will sit at the elbow of every councillor and officer working in taxi licensing.

Philip Kolvin QC
Cornerstone Barristers

April 2018

Chapter 1: Introduction

- 1.1 This guidance has been produced by the Institute of Licensing working in partnership with the Local Government Association (LGA), Lawyers in Local Government (LLG) and the National Association of Licensing and Enforcement Officers (NALEO), following widespread consultation. We are grateful to all three organisations for their contributions. This guidance is formally endorsed by all of those organisations.
- 1.2 The overriding aim of any Licensing Authority when carrying out its functions relating to the licensing of Hackney or Private Hire Drivers, Vehicle Proprietors and Operators, must be the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services.
- 1.3 The relevant legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence and that is a test to be applied after any applicant has gained any reasonably required qualifications¹. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.
- 1.4 If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
- 1.5 There is no recent Statutory or Ministerial guidance as to how such decisions should be approached or what matters are relevant or material to a decision. This guidance complements the LGA's Taxi and Private Hire Licensing Councillor's Handbook and any forthcoming Government guidance. Local authorities should also be aware of the forthcoming National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences.
- 1.6 This document is intended to provide guidance on determining suitability, taking into account the character of the applicant or licensee. It can then be used by local authorities as a basis for their own policies: in particular it considers how regard should be had to the antecedent history of the applicant or licence holder and its relevance to their 'fitness and propriety' or 'character'. As with any guidance it need not be slavishly followed but it provides a starting or reference point from which decisions can be made taking into account the particular merits of each case.
- 1.7 A licensing authority policy can take a 'bright line approach' and say "never" in a policy, but it remains a policy, and as such does not amount to any fetter on the discretion of the

¹ Except vehicle proprietors. In those cases there is no "fit and proper" requirement, but the authority has an absolute discretion over granting a licence.

authority. Each case will always be considered on its merits having regard to the policy, and the licensing authority can depart from the policy where it considers it appropriate to do so. This will normally happen where the licensing authority considers that there are exceptional circumstances which warrant a different decision. This approach was endorsed by the High Court in *R (on the application of Nicholds) v Security Industry Authority*².

- 1.8 In Chapter 2 this Guidance explores the current thinking behind an individual's tendencies to reoffend. It is clear that this is not an exact science and that there is no meaningful and precise statistical evidence that can assist in the setting of policy. Given the important function of licensing to protect the public, any bar should be set at the highest level which is reasonable, albeit subject to the exercise of discretion as is set out in paragraph 1.7 and Chapters 3 and 4.
- 1.9 This Guidance contains no detailed list of offences. All offences are allocated to a general category such as 'dishonesty' or 'drugs'. This prevents it being argued that a specific offence is not covered by the Policy as it 'is not on the list' and also prevents arguments that a firearm is more serious than a knife and should lead to differentiation. In each case, appropriate weight should be given to the evidence provided.
- 1.10 This Guidance cannot have the force of legislation, new or amended; the need for which is both abundantly clear to, and fully supported by the Institute and the other organisations working with it. It is intended to help local authorities achieve greater consistency so that applicants are less able to shop between authorities. It is acknowledged that this cannot be fully achieved without the imposition of national minimum standards.
- 1.11 In preparing this document the Institute's Working Party has consulted with and considered the issues from all perspectives including, Councillors, Licensing Officers, Lawyers, the Hackney Carriage and Private Hire Trades, Academics, the Probation Service and the Police.

² [2007] 1 WLR 2067

Chapter 2: Offenders and Offending - An Overview

- 2.1 The aim of local authority licensing of the taxi and PHV trades is to protect the public'.³ With this in mind, Public Protection must be at the forefront of the decision maker's mind when determining whether an individual is considered a "fit and proper person" to hold a licence.
- 2.2 This section aims to provide a brief overview of public protection, how to determine risk and factors to be considered when an applicant seeks to demonstrate a change in their offending behaviour.
- 2.3 The licensing process places a duty on the local authority to protect the public. Given the nature of the role, it is paramount that those seeking a living in the trades meet the required standards. As the previous offending behaviour can be considered as a predictor in determining future behaviour as well as culpability, it is essential that the decision maker considers all relevant factors including previous convictions, cautions and complaints and the time elapsed since these were committed.
- 2.4 There has been extensive research into the reasons behind why some individuals commit crimes, why some learn from their mistakes and stop offending whilst others find themselves in a cycle of repeat offending. Several theories have evolved over many years offering insight into the reasons behind offending behaviour. One common theme is that no two crimes are the same and that risk cannot be eliminated, or the future predicted. What can be done, is to examine each case on its individual merits, look at the risks involved along with any change in circumstances since any offences were committed to assist in making the decision.
- 2.5 A key factor when considering an application from an individual with any convictions, cautions or complaints recorded is Public Protection. This includes assessing the risk of re-offending and harm⁴. Risk assessment tools are regularly employed by those who are responsible for managing individuals who have committed offences. Local Authorities are not always privy to this information so it is important when they are making decisions around suitability that they have an understanding of offending behaviour and risk of re-offending in generic terms.

³ DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 8

⁴ Kemshall, H. (2008). Understanding the Management of High Risk Offenders (Crime and Justice). Open University Press

- 2.6 Flaud⁵ noted that risk is in principle, a matter of fact, but danger is a matter of judgment and opinion. He goes on to note that risk may be said to be the likelihood of an event occurring; danger may be the degree of damage (harm) caused should that event take place⁶.
- 2.7 The National Offender Management Service refers to risk in two dimensions. That being the likelihood that an offence will occur, and the impact / harm of the offence should it happen. Generally, when making a decision around probability and likelihood of re-offending, consideration is needed towards static and dynamic factors.
- 2.8 Static factors are historical and do not change such as age, previous convictions and gender. They can be used as a basis for actuarial assessments and are fundamental in considering an individual's potential to reoffend in future⁷. For example, recent published statistics revealed that 44% of adults are reconvicted within one year of release. For those serving sentences of less than twelve months this increased to 59%⁸. It is also widely accepted that generally persons with a large number of previous offences have a higher rate of proven reoffending than those with fewer previous offences⁹.
- 2.9 Dynamic factors are considered changeable and can vary over time. They include attitudes, cognitions and impulsivity¹⁰. It is documented that the greater their unmet need, the more likely an individual is to re-offend. When considering whether an individual has been rehabilitated, it is important to have regard towards the motivation behind their offending and dynamic risk factors present at the time, against the steps taken to address such factors thus reducing the risk of re-offending.
- 2.10 It is of note that problems and/or needs are more frequently observed in offender populations than in the general population¹¹. Many of these factors are interlinked and embedded in an individual's past experiences. This can impact upon that person's ability to change their behaviour, particularly if the areas identified have not been addressed or support has not been sought. Needs will vary from individual to individual and will rely upon their level of motivation and the nature of the offence committed.

⁵ Flaud, R. (1982). Cited in, Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

⁶ Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

⁷ Craig, L. A. and Browne, K. B (2008). *Assessing Risk in Sex Offenders: A Practitioner's Guide* Paperback.

⁸ Ministry of Justice (2017) *Proven reoffending statistics: July 2014 to June 2015*, London: Ministry of Justice.

⁹ Ministry of Justice (2015): *Transforming Rehabilitation: a summary of evidence on reducing reoffending*. London: Ministry of Justice.

¹⁰ McGuire, J. (2008). A review of effective interventions for reducing aggression and violence. *Philosophical Transactions of the Royal Society B: Biological Sciences*, 363(1503), 2577-2597

¹¹ Nash, M. (1999) *Police, Probation and Protecting the Public*. London: Blackwell Press.

Risk of re-offending:

- 2.11 The issue of recidivism and increase in serious crime rates has given rise to extensive publications, theories and changes in legislation with many focusing upon the need for more rehabilitation projects as a means of reducing re-offending rates. Central to the rehabilitation of offenders is the concept of criminogenic needs. This has been described by the National Offender Management Service as “any area where the offender has needs or deficits, in which a reduction in the need or deficit would lead to a reduction in the risk of re-conviction. An individual’s ability to address and reduce such needs relies heavily upon their motivation to change and desist and often takes place over a period of time”¹².
- 2.12 Kurlychek, 2007 in her study noted that “a person who has offended in the past has been found to have a high probability of future offending, but this risk of recidivism is highest in the time period immediately after arrest or release from custody and, thereafter, decreases rapidly and dramatically with age”¹³.
- 2.13 A consistent finding throughout criminological literature is that male offenders tend to desist from crime aged 30 years and over¹⁴. It is well documented that the change occurs for various reasons; for example, as a result of successful treatment, natural maturation or the development of positive social relationships¹⁵. Female offenders are also considered more likely to desist from offending as they mature. The peak age of reported offending for females was 14 compared to 19 for males¹⁶.
- 2.14 Desisting from crime for people who have been involved in persistent offending is a difficult and complex process, likely to involve lapses and relapses. Some individuals may never desist¹⁷. As a result, it is important for individuals to evidence change in their behaviour before they can be considered to present a low or nil risk of re-offending. Often the only way of achieving this is through lapse of time.
- 2.15 The longer the time elapsed since an offence has been committed, the more likely the individual will desist from crime. It is noted that the more a life is lived crime-free, the more one comes to see the benefits of desistance¹⁸. Demonstrating a change in offending behaviour and an ability to make effective choices takes time and comes with some

¹² National Offender Management Service (2016). Public Protection Manual Edition. Proven Reoffending Statistics Quarterly Bulletin, October 2015 to December 2015

¹³ Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.

¹⁴ Serin, R, C. and Lloyd, C.D (2008). Examining the process of offender change: the transitions to crime desistance. 347-364.

¹⁵ Nash, M. (1999) Police, Probation and Protecting the Public. London: Blackwell Press.

¹⁶ Trueman, C.N. (2015). Women and Crime. The History Learning Site. Ingatestone: Essex.

¹⁷ Farrell, S (2005). Understanding Desistance from Crime: Emerging Theoretical Directions in Resettlement and Rehabilitation (Crime and Justice) Paperback.

¹⁸ Maguire, M., Morgan, R. and Reiner, R. (2002). The Oxford Handbook of Criminology. 3rd Edition. Oxford: Oxford University Press.

ambiguity for those who have committed offences. A study in 2007 looking into previous convictions and the links to re-offending concluded that “individuals who have offended in the distant past seem less likely to recidivate than individuals who have offended in the recent past”¹⁹.

- 2.16 Although it is not possible to determine the future behaviour of an individual, taking steps to reduce risk and protect the public can be achieved by following correct processes and guidance. Having regard to an individual’s previous behaviour and their potential to cause harm as a result of the choices they have made plays a significant part when making a decision as to whether to grant a licence. Being able to evidence change in behaviour will involve consideration of the circumstances at the time of the offence, steps taken to address any issues identified and that person’s ability to sustain such change. This can be a long process that can only be achieved over time.

¹⁹ Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.

Chapter 3: 'Taxi' Licensing Overview

- 3.1 Taxis are used by almost everyone in our society occasionally, but they are used regularly by particularly vulnerable groups: children; the elderly; disabled people; and the intoxicated, and a taxi driver has significant power over a passenger who places themselves, and their personal safety, completely in the driver's hands.
- 3.2 Local authorities (districts, unitaries and Welsh Councils) and TfL are responsible for hackney carriage and private hire licensing.
- 3.3 The principal legislation is the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The purpose of taxi licensing is detailed in the DfT *"Taxi and Private Hire Licensing – Best Practice Guide"* para 8 which states:
- "The aim of local authority licensing of the taxi and PHV trades is to protect the public."
- 3.4 Within the two licensing regimes, there are 5 types of licence: hackney carriage vehicle; private hire vehicle; hackney carriage driver; private hire driver and private hire operator.
- 3.5 In relation to all these licences, the authority has a discretion over whether to grant. Whilst there is some guidance issued by the DfT, there are no national standards.
- 3.6 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a "fit and proper person" to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 3.7 There are no statutory criteria for vehicle licences; therefore, the authority has an absolute discretion.
- 3.8 In each case, the authority has powers to grant a licence, renew it on application and, during the currency of the licence, suspend or revoke it.
- 3.9 What is the role of each of these, and how do authorities determine an application, or take action against a licence?

Taxi Drivers

- 3.10 The term "taxi driver" encompasses two different occupations: hackney carriage drivers and private hire drivers. "Taxi driver" is therefore used as a broad, overarching term to cover both hackney carriage and private hire drivers. In each case there are identical statutory

criteria to be met before a licence can be granted and many authorities grant “dual” or “combined” licences to cover driving both types of vehicle.

- 3.11 An applicant must hold a full DVLA or equivalent driver’s licence, have the right to work in the UK, and be a “fit and proper” person²⁰.
- 3.12 The driving licence element is a question of fact. Although there are some issues with foreign driving licences, ultimately a person either has, or does not have a driving licence.
- 3.13 An applicant must also have the right to remain, and work in the UK²¹.
- 3.14 Again, this is ultimately a question of fact and the local authority should follow the guidance issued by the Home Office.²²
- 3.15 It is the whole issue of “fit and proper” that causes local authorities the most difficulties. It has never been specifically judicially defined but it was mentioned in *Leeds City Council v Hussain*²³. Silber J said:

“... the purpose of the power of suspension is to protect users of licensed vehicles and those who are driven by them and members of the public. Its purpose [and], therefore [the test of fitness and propriety], is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers.”

- 3.16 This is reflected in a test widely used by local authorities:

‘Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage driver’s licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?’²⁴

- 3.17 It is suggested that the expression “safe and suitable” person to hold a driver’s licence is a good interpretation which neither adds nor removes anything from the original term of “fit and proper” but brings the concept up to date.

²⁰ Local Government (Miscellaneous Provisions) Act 1976. Section 51(1) covers private hire drivers, and section 59(1) covers hackney carriage drivers.

²¹ Local Government (Miscellaneous Provisions) Act 1976 S51(1)(a)(ii) in respect of private hire drivers and S59(1)(a)(ii) in respect of hackney carriage drivers.

²² “Guidance for Licensing Authorities to Prevent Illegal Working in the Taxi and Private Hire Sector in England and Wales” - Home Office, 1st December 2016 available at <https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

²³ [2002] EWHC 1145 (Admin), [2003] RTR 199

²⁴ Button on Taxis – Licensing Law and Practice 4th Ed Bloomsbury Professional at para 10.21

3.18 How can a local authority assess and then judge whether or not someone is safe and suitable to hold a drivers' licence?

3.19 The local authority has the power to require an applicant to provide:

“such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.”²⁵

This “information” can include any pre-conditions or tests that they consider necessary

3.20 Some of these are universal, such as medical assessments²⁶. Others are required by some authorities, but not others. These include:

- Enhanced DBS certificates and sign-up to the update service;
- Knowledge tests;
- Driving tests;
- Disability Awareness;
- Signed Declarations;
- Spoken English tests.

3.21 The provision of information in these terms can satisfy the local authority that a person has the skills and competencies to be a professional driver to hold a licence. However, the concepts of safety and suitability go beyond this. There is the character of the person to be considered as well.

3.22 Both hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no “spent” convictions and that any and all criminal convictions (apart from “protected convictions” and “protected cautions” where they have been declared²⁷) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered by the decision maker²⁸.

3.23 All Applicants/Licensees should be required to obtain an Enhanced DBS Certificate with Barred Lists checks²⁹ and to provide this to the Licensing Authority. All Licensees should also be required to maintain their Certificates through the DBS Update Service throughout the currency of their licence.

²⁵ Local Government (Miscellaneous Provisions) Act 1976 s57(1)

²⁶ See Local Government (Miscellaneous Provisions) Act 1976 s57(2)

²⁷ “Protected convictions” and “protected cautions” are single, minor and elderly matters that do not appear on any DBS Certificates.

²⁸ See *Adamson v Waveney District Council* [1997] 2 All ER 898

²⁹ “For Taxi [driver] Licensing purposes the correct level of check is always the Enhanced level check, with the Adults and Children’s Barred list check. Other Workforce should always be entered at X61 line 1 and Taxi Licensing should be entered at X61 line 2” DBS email 31st August 2017.

- 3.24 If any applicant has, from the age of 10 years, spent six continuous months or more living outside the United Kingdom, evidence of a criminal record check from the country/countries covering the relevant period should be required.
- 3.25 Local authorities should have a policy to provide a baseline for the impact of any convictions, cautions or other matters of conduct which concern a person's safety and suitability³⁰.
- 3.26 The character of the driver in its entirety must be the paramount consideration when considering whether they should be licensed. It is important to recognise that local authorities are not imposing any additional punishment in relation to previous convictions or behaviour. They are using all the information that is available to them to make an informed decision as to whether or not the applicant or licensee is or remains a safe and suitable person.
- 3.27 There are occasions where unsuitable people have been given licences by local authorities, or if refused by the authority, have had it granted by a court on appeal.
- 3.28 Often this is because of some perceived hardship. Case law makes it clear that the impact of losing (or not being granted) a driver's licence on the applicant and his family is not a consideration to be taken into account³¹. This then leads to the question of whether the stance taken by local authorities is robust enough to achieve that overriding aim of public protection.
- 3.29 However, all too often local authorities depart from their policies and grant licences (or do not take action against licensees) without clear and compelling reasons. It is vital that Councillors recognise that the policy, whilst remaining a policy and therefore the Authority's own guidelines on the matter, is the baseline for acceptability. It should only be departed from in exceptional circumstances and for justifiable reasons which should be recorded.
- 3.30 One common misunderstanding is that if the offence was not committed when the driver was driving a taxi, it is much less serious, or even if it was in a taxi but not when passengers were aboard. This is not relevant: speeding is dangerous, irrespective of the situation; drink driving is dangerous, irrespective of the situation; bald tyres are dangerous, irrespective of the situation. All these behaviours put the general public at risk. Violence is always serious. The argument that it was a domestic dispute, or away from the taxi, is irrelevant. A person who has a propensity to violence has that potential in every situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been)

³⁰ As recommended by the DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 59

³¹ *Leeds City Council v Hussain* [2002] EWHC 1145 (Admin), [2003] RTR 199 and *Cherwell District Council v Anwar* [2011] EWHC 2943 (Admin)

to assault another sexually has demonstrated completely unacceptable standards of behaviour.

- 3.31 Applicants may claim that they have sought employment in other fields and been precluded as a result of their antecedent history particularly if that contains convictions. They therefore seek to become a licensed driver as an occupation of last resort. This is unacceptable as the granting of a licence would place such a person in a unique position of trust. The paramount responsibility of a licensing authority is to protect the public, not provide employment opportunities.
- 3.32 Licensees are expected to demonstrate appropriate professional conduct at all time, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. In no circumstances should Licensees take the law into their own hands. Licensees are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.
- 3.33 There are those who seek to take advantage of vulnerable people by providing services that they are not entitled to provide; for example, by plying for hire in an area where they are not entitled to do so. Licensees are expected to be vigilant of such behaviour and to report any concerns to the Police and the relevant licensing authority. Passengers should feel confident to check that the person offering a service is entitled to do so. Licensees should willingly demonstrate that they are entitled to provide the offered service by, for example, showing their badge.
- 3.34 As a society, we need to ask the question “who is driving my taxi?” and be secure in the knowledge that the answer is “a safe and suitable person”. The vast majority of drivers are decent, law abiding people who work very hard to provide a good service to their customers and the community at large. However poor decisions by local authorities and courts serve to undermine the travelling public’s confidence in the trade as a whole. Unless local authorities and the courts are prepared to take robust (and difficult) decisions to maintain the standards the local authority lays down, and in some cases tighten up their own policies, the public cannot have complete confidence in taxi drivers. This is detrimental to all involved.

Private Hire Operators

- 3.35 A private hire operator (“PHO”) is the person who takes a booking for a private hire vehicle (“PHV”), and then dispatches a PHV driven by a licensed private hire driver (“PHD”) to fulfil that booking. All three licences (PHO, PHV and PHD) must have been granted by the same

authority³². A local authority cannot grant a PHO licence unless the applicant has the right to work in the UK and is a fit and proper person³³.

- 3.36 As with taxi drivers the role of the PHO goes far beyond simply taking bookings and dispatching vehicles. In the course of making the booking and dispatching the vehicle and driver, the PHO will obtain significant amounts of personal information. It is therefore vital that a PHO is as trustworthy and reliable as a driver, notwithstanding their slightly remote role. Hackney carriages can also be pre-booked, but local authorities should be mindful that where that booking is made by anybody other than a hackney carriage driver, there are no controls or vetting procedures in place in relation to the person who takes that booking and holds that personal information.
- 3.37 How then does a local authority satisfy itself as to the “fitness and propriety” or “safety and suitability” of the applicant or licensee?
- 3.38 Spent convictions can be taken into account when determining suitability for a licence, but the applicant (or licensee on renewal) can only be asked to obtain a Basic Disclosure from the Disclosure and Barring Service.
- 3.39 Although this is by no means a perfect system, it does give local authorities a reasonable basis for making an informed decision as to fitness and propriety of an applicant or existing licensee.
- 3.40 To enable consistent and informed decisions to be made, it is important to have a working test of fitness and propriety for PHOs and a suitable variation on the test for drivers can be used:
- “Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?”³⁴
- 3.41 There is a further point to consider in relation to PHOs and that concerns the staff used on the telephones and radios. There is no reason why a condition cannot be imposed on a PHO licence requiring them to undertake checks on those they employ/use within their company to satisfy themselves that they are fit and proper people to undertake that task and retain that information to demonstrate that compliance to the local authority. Any failure on the part of the PHO to either comply with this requirement, or act upon information that they

³² See *Dittah v Birmingham City Council*, *Choudhry v Birmingham City Council* [1993] RTR 356 QBD

³³ Section 55(1) Local Government (Miscellaneous Provisions) Act 1976

³⁴ Button on Taxis – Licensing Law and Practice 4th Ed Bloomsbury Professional at para 12.35

obtain (thereby allowing unsuitable staff to work in positions of trust), would then have serious implications on the continuing fitness and propriety of the PHO.

- 3.42 Care should be taken in circumstances where a PHO Licence is sought in the name of a limited company, partnership or other business structure that all the requirements applicable to an individual applicant are made of each director or partner of the applicant organisation³⁵. Only by so doing can a decision be made as to the fitness and propriety of the operating entity.

Vehicle Proprietors

- 3.43 Similar considerations apply to the vehicle proprietors, both hackney carriage and private hire (referred to here generically as “taxis”). Although the vehicle proprietor may not be driving a vehicle (and if they are they will be subject to their own fitness and propriety test to obtain a driver’s licence), they clearly have an interest in the use of the vehicle. They will also be responsible for the maintenance of the vehicle, and vehicles that are not properly maintained have a clear impact on public safety.
- 3.44 Taxis are used to transport people in many circumstances, and are seen everywhere across the United Kingdom, at all times of the day and night, in any location. Therefore, taxis could provide a transportation system for illegal activities or any form of contraband, whether that is drugs, guns, illicit alcohol or tobacco, or people who are involved in or are the victims of illegal activity, or children who may be at risk of being, or are being, abused or exploited.
- 3.45 In relation to both hackney carriages and private hire vehicles, the local authority has an absolute discretion over granting the licence³⁶ and should therefore ensure that both their enquiries and considerations are robust. It is much more involved than simply looking at the vehicle itself and it is equally applicable on applications to transfer a vehicle as on grant applications.
- 3.46 Again, this is not an exempt occupation for the purposes of the 1974 Act, but exactly the same process can be applied as for private hire operators – Basic DBS, statutory declaration and consideration of spent convictions. This can then be used in the light of a similar policy in relation to suitability as the authority will already have for drivers and PHOs.
- 3.47 A suitable test would be:

“Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be

³⁵ See s57(1)(c) of the 1976 Act.

³⁶ S37 of the 1847 Act in relation to hackney carriages, section 48 of the 1976 Act to private hire vehicles.

satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?”³⁷

³⁷ Button on Taxis – Licensing Law and Practice 4th Ed Bloomsbury Professional at para 8.98

Chapter 4: Guidance on Determination

- 4.1 As is clear from the overview of Offenders and Offending above, there is no evidence which can provide precise periods of time which must elapse after a crime before a person can no longer be considered to be at risk of reoffending, but the risk reduces over time. In light of that, the suggested timescales below are intended to reduce the risk to the public to an acceptable level.
- 4.2 Many members of our society use, and even rely on, hackney carriages and private hire vehicles to provide transportation services. This can be on a regular basis, or only occasionally, but in all cases passengers, other road users and society as a whole must have confidence in the safety and suitability of the driver, the vehicle itself and anyone involved with the booking process.
- 4.3 Ideally, all those involved in the hackney carriage and private hire trades (hackney carriage and private hire drivers, hackney carriage and private hire vehicle owners and private hire operators) would be persons of the highest integrity. In many cases that is true, and the vast majority of those involved in these trades are decent, upstanding, honest and hard-working individuals. Unfortunately, as in any occupation or trade, there are those who fail to conform to those standards.
- 4.4 The purpose of this document is to offer guidance on how licensing authorities can determine whether a particular person is safe and suitable either to be granted a licence in the first place or to retain such a licence. As outlined above, a policy can be robust, and if necessary, say never, and each case is then considered on its own merits in the light of that policy.

Pre-application requirements

- 4.5 Licensing authorities are entitled to set their own pre-application requirements. These will vary depending upon the type of licence in question but can include some or all of the following (these are not exhaustive lists):

Vehicles:

- Basic DBS checks;
- Specifications e.g. minimum number of doors, minimum seat size, headroom, boot space etc;
- Mechanical tests and tests of the maintenance of the vehicle e.g. ripped seats etc;
- Emission limits/vehicle age limits;
- Wheelchair accessibility requirements.

Drivers:

- Enhanced DBS checks with update service;
- Checks made to the National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences (when available);
- Medical checks;
- Knowledge of the geographic area;
- Spoken and written English tests;
- Disability awareness training;
- Child sexual exploitation and safeguarding training.

Operators:

- Basic DBS checks;
- Details of their vetting procedures for their staff;
- Knowledge of the licensing area.

- 4.6 In relation to each of these licences, the licensing authority has discretion as to whether or not to grant the licence.
- 4.7 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a “fit and proper person” to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 4.8 There are no statutory criteria for vehicle licences, therefore the authority has an absolute discretion over whether to grant either a hackney carriage or private hire proprietor’s licence.
- 4.9 “Fit and proper” means that the individual (or in the case of a private hire operator’s licence, the limited company together with its directors and secretary, or all members of a partnership³⁸) is “safe and suitable” to hold the licence.
- 4.10 In determining safety and suitability the licensing authority is entitled to take into account all matters concerning that applicant or licensee. They are not simply concerned with that person’s behaviour whilst working in the hackney carriage or private hire trade. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual will be considered. This can include, but is not limited to, the individual’s attitude and temperament.

³⁸ Section 57(2)(c) of the Local Government (Miscellaneous Provisions) Act 1976 allows a local authority to consider the character of a company director or secretary, or any partner.

- 4.11 Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction³⁹. Fixed penalties and community resolutions will also be considered in the same way as a conviction⁴⁰.
- 4.12 It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
- 4.13 In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
- 4.14 In all cases, the licensing authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines.
- 4.15 Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
- 4.16 As the licensing authority will be looking at the entirety of the individual, in many cases safety and suitability will not be determined by a specified period of time having elapsed following a conviction or the completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor.
- 4.17 In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
- 4.18 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated

³⁹ This is because a caution can only be imposed following an admission of guilt, which is equivalent to a guilty plea on prosecution.

⁴⁰ This is because payment of a fixed penalty indicates acceptance of guilt, and a community resolution can only be imposed following an admission of guilt.

conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.

- 4.19 It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
- 4.20 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
- 4.21 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.
- 4.22 Generally, where a person has more than one conviction, this will raise serious questions about their safety and suitability. The licensing authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.
- 4.23 Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
- 4.24 These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual.

Drivers

- 4.25 As the criteria for determining whether an individual should be granted or retain a hackney carriage driver's licence are identical to the criteria for a private hire driver's licence, the two are considered together.
- 4.26 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.

- 4.27 As stated above, where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.28 In relation to single convictions, the following time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.

Crimes resulting in death

- 4.29 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

- 4.30 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 exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence

- 4.31 Where an applicant has a conviction for an offence of violence, 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

- 4.32 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 7 years have elapsed since the completion of any sentence imposed.

Sex and indecency offences

- 4.33 Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.
- 4.34 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

- 4.35 Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Drugs

- 4.36 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.
- 4.37 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 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

- 4.38 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Motoring convictions

- 4.39 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving

- 4.40 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 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
- 4.41 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 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Other motoring offences

- 4.42 A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.
- 4.43 A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Hackney carriage and private hire offences

- 4.44 Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Vehicle use offences

- 4.45 Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Private Hire Operators

- 4.46 A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.
- 4.47 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.48 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic DBS certificate. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority’s overall criteria, that will lead to the operator’s licence being revoked.

- 4.49 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers, which are outlined above.

Vehicle proprietors

- 4.50 Vehicle proprietors (both hackney carriage and private hire) have two principal responsibilities.
- 4.51 Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times.
- 4.52 Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.
- 4.53 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a vehicle licence.
- 4.54 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to proprietors as those applied to drivers, which are outlined above.

Acknowledgements

In December 2015, the Institute of Licensing established a working party to look at the creation of a model or standard set of guidelines in relation to assessing the suitability of applicants and licence holders in relation to taxi drivers, operators and vehicle proprietors, taking into account the character of the applicant or licensee.

The core project group comprised:

- Stephen Turner, Solicitor at Hull City Council, Licensing Lead for Lawyers in Local Government and Vice Chair of the North East Region IoL (Project Group Chair)
- Jim Button, Solicitor at James Button & Co and President of IoL
- Philip Kolvin QC, Cornerstone Barristers and Patron of IoL
- John Miley, Licensing Manager for Broxtowe Borough Council, National Chair for NALEO and Vice Chair of the East Midlands Region IoL
- Linda Cannon, previously Licensing Manager for Basingstoke & Dean and Hart Councils, and now private licensing consultant and Chair of the South East Region IoL
- Phil Bates, Licensing Manager for Southampton City Council
- Sue Nelson, Executive Officer of IoL

This Guidance is the result of the work of the project team and includes consideration of antecedent history of the applicant or licence holder and its relevance to their 'character' as well as consideration of convictions, cautions and non-conviction information.

The Institute is delighted to have the Local Government Association, the National Association of Licensing and Enforcement Officers and Lawyers in Local Government contributing to and supporting this project with IoL.

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- Louise Scott Garner
- Jenna Parker, Institute of Licensing

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Lawyers in Local Government (LLG). www.lawyersinlocalgovernment.org



National Association of Licensing and Enforcement Officers (NALEO). www.naleo.org.uk



Statement of Policy and Guidelines relating to the relevance of Convictions, Formal / Simple Cautions, Complaints and/or other matters

1. Licences for drivers of hackney carriages and private hire vehicles may only be granted where the Council is satisfied that the individual is a fit and proper person to hold such a licence.
2. The Council may fail to be satisfied that an individual is a fit and proper person to hold a driver's licence for any good reason. If adequate evidence that a person is a fit and proper person is not adduced or if there is good reason to question or doubt the evidence provided, then that could amount to good reason to refuse a licence.
3. In considering evidence of an individual's good character and fitness to hold a driver's licence, where previous convictions or other information relating to criminal and/or other matter(s) is disclosed, the Council will consider the nature of the offence, when it was committed, the date of conviction, and/or other matter(s), the individual's age when the offence was committed and any other factors which might be relevant. Where an individual has been convicted of a criminal offence, the Council cannot review the merits of the conviction [Nottingham City Council v. Mohammed Farooq (1998)].
4. If an applicant has ever lived outside the UK for a period of more than 4 continuous weeks, other than for a holiday, they will also need to supply a 'Certificate of Good Conduct' from the relevant embassy.
5. The guidelines do not deal with every type of offence, and do not prevent the Council from taking into account offences not specifically addressed in the guidelines, or other conduct, which may be relevant to an individual.
6. Any individual who is refused a driver's licence or has such a licence suspended or revoked on the ground that the Council is not satisfied he is a fit and proper person to hold such a licence has a right of appeal to the Magistrates' Court within 21 days of the notice of refusal.
7. When submitting an application for a licence to drive a hackney carriage or private hire vehicle, applicants are required to declare all previous convictions they may have. Individuals are also required to declare all formal/simple cautions, any matters of restorative justice and all endorsable fixed penalties they have received and to provide details of all criminal matters of which they are currently the subject of criminal investigation or prosecution.

Failure to Disclose Information

8. Withholding information when submitting an application can be interpreted as deception and may lead to refusal of the application for this reason alone.

9. Failure to notify the Licensing Department of any arrest, conviction, caution or other relevant matter during the duration of the licence in accordance with a licence condition or bylaw, will also be treated as deception and may lead to refusal/revocation/suspension of a licence for this reason alone.

GUIDELINES ON THE RELEVANCE OF PREVIOUS CONVICTIONS, FORMAL/SIMPLE CAUTIONS, AND /OR OTHER MATTERS

10. Each case will be decided on its own merits.
11. For the purpose of these guidelines formal and simple cautions and endorsable fixed penalties will be treated as though they were convictions.
12. Where an applicant has multiple convictions arising from a single incident, the convictions will generally be treated as one conviction for the purposes of these guidelines. In these circumstances the period for which the applicant would normally be expected to show free from conviction will be the longest applicable period calculated by reference to each offence.
13. Restorative justice is increasingly used by the police as a less formal way of dealing with issues as an alternative to the criminal court system. The Council recognise that restorative justice should not be dealt with as though it were a conviction, but that it can be taken into consideration, when deciding if a person is a 'fit and proper' to hold a licence.
14. Where any offence has resulted in a term of imprisonment, the time periods given will run from the date that the applicant was released from prison, not from the date of conviction.
15. Where an applicant has been subject to a bind over, restraining order or similar, imposed by a court, no application will normally be considered until a period of at least 6 months has elapsed from the period of any such order finishes.
16. A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to (a) remain free of conviction for an appropriate period and (b) show adequate evidence that he or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence). Simply remaining free of conviction will not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.
17. Amongst situations where it may be appropriate to depart from the general policy, for example, may be situations where the offence is an isolated one with mitigating circumstances or where a conviction defaults outside of the policy between the application and determination date. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour, which will be taken into account. In any case which involves certain specified sexual offences, murder or manslaughter a licence will normally be refused.
18. A very serious view will be taken of any conviction; no matter how minor or serious, that occurs whilst the person is the holder of a current licence and especially if the offence occurred whilst in the course of their employment as a licensed proprietor, driver or operator.

19. The following examples afford a general guide on the action, which might be taken where convictions are disclosed.

a) Dishonesty

Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways.

Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. Passengers may include vulnerable people.

For these reasons a serious view is taken of any conviction(s) involving dishonesty. An application will normally be refused where the applicant has a conviction for an offence, similar offence(s) or offence(s) which replace the below offences, and the conviction is less than 3 years ago

- i. Theft
- ii. Burglary
- iii. Fraud
- iv. Benefit Fraud (including offences under ss.111A and 112 of the Social Security Administration Act 1992)
- v. Handling or receiving stolen goods
- vi. Forgery (eg producing false insurance policy)
- vii. Conspiracy to defraud
- viii. Obtaining money or property by deception
- ix. Other deception

b) Violence

- i. An application will normally be refused where the applicant has a conviction for an offence, similar offence(s), or offence(s) which replace the below offences:
 - a. Murder
 - b. Manslaughter
 - c. Manslaughter or culpable homicide while driving
- ii. An application will normally be refused where the applicant has a conviction for an offence, similar offence(s), or offence(s) which replace the below offences and the conviction was less than 10 years ago:
 - a. Arson
 - b. Malicious wounding or grievous bodily harm (s.20 Offences Against the Person Act 1861) which is racially or religiously aggravated (s.29(1)(a) Crime and Disorder Act 1998)
 - c. Actual bodily harm (s.47 Offences Against the Person Act 1861) which is racially or religiously aggravated (s.29(1)(b) Crime and Disorder Act 1998)
 - d. Grievous bodily harm with intent (s.18 Offences Against the Person Act)
 - e. Grievous bodily harm with intent (s.20 Offences Against the Person Act)
 - f. Robbery
 - g. Possession of firearm

- h. Riot
 - i. Assault Police
 - j. Common assault with racially or religiously aggravated (s.29(1)(c) Crime and Disorder Act 1998)
 - k. Violent disorder
 - l. Resisting arrest
- iii. An application will normally be refused where the applicant has a conviction for an offence, similar offence(s), or offence(s) which replace the below offences and the conviction was less than 5 years ago:
 - a. Racially or religiously -aggravated criminal damage (s.30 Crime and Disorder Act 1998)
 - b. Racially or religiously -aggravated s.4 Public Order Act 1986 offence (fear of provocation of violence) (s.31(1)(a) Crime and Disorder Act 1998)
 - c. Racially or religiously -aggravated s.4A Public Order Act 1986 offence (intentional harassment, alarm or distress (s.31(1)(b) Crime and Disorder Act 1998)
 - d. Racially or religiously -aggravated s.2 Protection from Harassment Act 1997 offence (harassment) (s.32(1)(a) Crime and Disorder Act 1998)
 - e. Racially or religiously -aggravated s.4 Protection from Harassment Act 1997 offence (putting people in fear of violence) (s.32(1)(b) Crime and Disorder Act 1998)
 - f. Racially or religiously -aggravated s.5 Public Order Act 1986 offence (harassment, alarm or distress) (s.31(1)(c) Crime and Disorder Act 1998)
- iv. An application will normally be refused where the applicant has a conviction for an offence, similar offence(s), or offence(s) which replace the below offences and the conviction was less than 3 years ago:
 - a. Common Assault
 - b. Assault occasioning actual bodily harm (s.47 Offences Against the Person Act)
 - c. Affray
 - d. S5 Public Order Act 1986 offence (harassment, alarm or distress)
 - e. S.4 Public Order Act 1986 offence (fear of provocation of violence)
 - f. S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
 - g. Harassment – breach of restraining order – on conviction Protection from Harassment Act 1997 s.5(5)+s.5(6)
 - h. Obstruction
 - i. Possession of offensive weapon
 - j. Criminal damage

c) Drugs

- i. An application will normally be refused where an applicant has an isolated conviction for an offence related to the possession of drugs in the previous 3 years.
- ii. An application will normally be refused where the applicant has more than one conviction for offences related to the possession of drugs in the previous 5 years.

- iii. An application will normally be refused where the applicant has a conviction for an offence related to the supply of drugs in the previous 5 years.
- iv. If any applicant was an addict then they will normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

d) Sexual and Indecency Offences

- i. Any conviction for an offence of a sexual nature or involving indecency will be viewed most seriously. In any application where such offences are declared or found to be recorded against the applicant, the matter will be referred to the Licensing Sub-Committee for a decision irrespective of how long ago the conviction was.
- ii. As hackney carriage and private hire vehicle drivers often carry unaccompanied passengers, applicants with a conviction for rape, indecent assault, other similar offences or similar offences under the Sexual Offences Act 2003, will normally be refused a licence.
- iii. Applicants with a conviction relating to sexual offences such as soliciting, importuning, indecent exposure, other similar offences or similar offences under the Sexual Offences Act 2003, will normally be refused a licence until they can show a substantial period (usually 7 years) free from any such conviction.
- iv. If an applicant has been placed on the Sex Offenders Register then the period of seven years shall run from the date of removal from that register. Under no circumstances will an application be accepted from any person still on the register.
- v. Where there is more than one conviction for this type of offence, or the conviction has arisen as the result of the use or operation of a licensed vehicle in the course of public or private hire, the application will normally be refused.

e) Drunkenness

- i. With a motor vehicle (No Disqualification)

A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of drink.

An application will normally be refused where the applicant has a conviction, which does not result in disqualification, for an offence within 2 years of the date of the application.

More than one conviction for this type of offence, within the last 5 years of the date of conviction is likely to be refused.

- ii. With a motor vehicle (Disqualification)

Where a disqualification has occurred as a result of a drink-driving offence, at least 5 years free from conviction should normally elapse from the date of the restoration of the DVLA licence before an applicant is considered for a licence.

In addition, applicants will normally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if they were an alcoholic.

iii. Not in a motor vehicle

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. In some cases, a warning may be appropriate.

More than one conviction for drunkenness could indicate a medical problem necessitating critical examination and refusal of a licence. In addition, applicants will generally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if they were an alcoholic.

f) Safeguarding of Vulnerable Groups

Where an applicant is included on the Children's or Adult's Barred Lists of the Independent Safeguarding Authority, no application for grant of a licence will be entertained whilst they remain on either list.

Where an applicant has been on either barred list and subsequently removed from it, no application will be entertained until seven years have elapsed after removal from the list.

g) Counter Terrorism

Any conviction for an offence of relating to counter terrorism will be viewed most seriously. In any application where such offences are declared or found to be recorded against the applicant, the matter will be referred to the Licensing Sub-Committee for a decision irrespective of how long ago the conviction was.

MOTORING CONVICTIONS

20. MAJOR TRAFFIC OFFENCES

One Conviction

Where an applicant has one Major Traffic Offence, within the last 2 years, the application will normally be refused.

Two or more Convictions

Where an applicant has more than one Major Traffic Offences in the previous 5 years, the application will normally be refused.

Disqualification

If any conviction for a Major Traffic Offence results in a disqualification, applicants should refer to the section of these guidelines entitled “disqualification”.

For the purposes of these guidelines the following motoring offences are classed as ‘Major Traffic Offences’:

AC10	Failing to stop after an accident
AC20	Failing to give particulars or to report an accident within 24 hours
AC30	Undefined accident offences
BA10	Driving while disqualified by order of Court
BA30	Attempting to drive while disqualified by order of Court
CD40	Causing death through careless driving when unfit through drink
CD50	Causing death through careless driving when unfit through drugs
CD60	Causing death through careless driving with alcohol level above the limit
CD70	Causing death through careless driving then failing to supply a specimen for alcohol analysis
CD71	Causing death through careless driving the failing to supply a specimen for drug
DD40	Dangerous driving
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving
DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink
DR30	Driving or attempting to drive then failing to supply a specimen for analysis
DR31	Driving or attempting to drive when unfit through drugs
DR40	In charge of a vehicle while alcohol level above limit

DR50	In charge of a vehicle while unfit through drink
DR60	Failure to provide specimen for analysis in circumstances other than driving / attempting to drive
DR61	Failure to provide specimen for drug analysis in circumstances other than driving / attempting to drive
DR70	Failing to provide specimen for breath test
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle when unfit through drugs
IN10	Using a vehicle uninsured against third party risks
LC20	Driving otherwise than in accordance with a licence
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle having failed to notify a disability
LC50	Driving after a licence has been revoked or refused on medical grounds
MS50	Motor racing on the highway
MS60	Offences not covered by other codes
MS90	Failure to give information as to identity of driver, etc.
UT50	Aggravated taking of a vehicle
TT99	Totting up – if the total of penalty points reaches 12 or more within 3 years the driver is liable to disqualification by the Court.

Aiding, Abetting, Counselling or Procuring

Offences as coded above, but with 0 changed to 2 (e.g. IN10 becomes IN12).

Causing or Permitting

Offences as coded above, but with 0 changed to 4 (e.g. IN10 becomes IN14).

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. IN10 becomes IN16). Or similar offences or offences which replace the above offences.

21. INTERMEDIATE TRAFFIC OFFENCES

Any Intermediate Traffic Offence, which has attracted 4 or more penalty points will be treated as though it were a Major Traffic Offence.

One Conviction

An isolated Intermediate Traffic Offence need not debar an applicant from gaining a licence. In some cases, a warning may be appropriate.

Two or more Convictions

Where an applicant has more than one Intermediate Traffic Offences in the previous 12 months, the application will normally be refused.

Disqualification

If any conviction for an Intermediate Traffic Offence results in a disqualification, applicants should refer to the section of these guidelines entitled "disqualification".

For the purposes of these guidelines the following motoring offences are classed as 'Intermediate Traffic Offences':

CU10	Using vehicle with defective brakes
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30	Using a vehicle with defective tyres
CU40	Using a vehicle with defective steering
CU50	Causing or likely to cause danger by reason of load or passengers
CU80	Breach of requirements as to control of the vehicle mobile phones etc
CD10	Driving without due care and attention
CD20	Driving without reasonable consideration for other road users
CD30	Driving without due care and attention or without reasonable consideration of other road users
SP10	Exceeding goods vehicle speed limit
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30	Exceeding statutory speed limit on a public road
SP40	Exceeding passenger vehicle speed limit
SP50	Exceeding speed limit on a motorway
SP60	Exceeding speed limit offence

Aiding, Abetting, Counselling or Procuring

Offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12).

Causing or Permitting

Offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14).

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. CU10 becomes CU16). Or similar offences or offences which replace the above offences.

22. MINOR TRAFFIC OFFENCES

Any Minor Traffic Offence which has attracted 4 or more penalty points will be treated as though it were an Intermediate Traffic Offence

Two or less Convictions

Where an applicant has two or less Minor Traffic Offences in the previous 12 months, the application will normally be granted with a letter of warning being placed on the file.

Three or more Convictions

Where an applicant has more than two Minor Traffic Offences in the previous 12 months, the application will normally be refused.

Disqualification

If any conviction for a Minor Traffic Offence results in a disqualification, applicants should refer to the section of these guidelines entitled "disqualification".

For the purposes of these guidelines the following motoring offences are classed as 'Minor Traffic Offences':

MS10	Leaving a vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Play street offences
MS70	Driving with uncorrected defective eyesight
MS80	Refusing to submit to an eyesight test
MW10	Contravention of Special Road Regulations (excluding speed limits)
PC10	Undefined contravention of Pedestrian Crossing Regulations
PC20	Contravention of Pedestrian Crossing Regulations with moving vehicle
PC30	Contravention of Pedestrian Crossing Regulations with stationary vehicle
TS10	Failing to comply with traffic light signals
TS20	Failing to comply with double white lines
TS30	Failing to comply with a "Stop" sign
TS40	Failing to comply with direction of a constable or traffic warden
TS50	Failing to comply with traffic sign (excluding "Stop" sign, traffic lights or double white lines)
TS60	Failing to comply with school crossing patrol sign
TS70	Undefined failure to comply with a traffic direction sign

Aiding, abetting, counselling or procuring

Offences as coded above, but with 0 changed to 2 (e.g. PC10 becomes PC12)

Causing or permitting

Offences as coded above, but with 0 changed to 4 (e.g. PC10 becomes PC14)

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. PC10 becomes PC16) Or similar offences or offences which replace the above offences.

23. DISQUALIFICATION

a) Disqualification – Major Traffic Offence

An application will generally be refused unless a period of 3 years has elapsed from the restoration of the DVLA licence, and 5 years where the disqualification relates to driving whilst unfit through drink or drugs.

b) Disqualification – Intermediate Traffic Offence

An application will generally be refused unless a period of 2 years has elapsed from the restoration of the DVLA licence.

c) Disqualification – Minor Traffic Offence

An application will generally be refused unless a period of 1 year has elapsed from the restoration of the DVLA licence.

24. SPENT CONVICTIONS

The Council will only consider spent convictions if it appears to be relevant for deciding whether the applicant is a fit and proper person to hold a licence and that justice cannot be done in the case, except by admitting or requiring evidence relating to that spent conviction(s).

25. VEHICLE FITNESS

If a licensed driver is found to be repeatedly driving unfit vehicles, that driver will be considered responsible and as a result will be referred to the Licensing Sub-Committee.

26. COMPLAINTS

All complaints will be kept on file. If a driver receives a complaint, an investigation will take place and, following that investigation, they may be referred to the Licensing Sub-Committee.

If a driver receives several complaints of a similar nature, they will be referred to the Licensing Sub-Committee.

27. OTHER OFFENCES

Offences under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 and Hackney Carriage Byelaws and Section 167 Criminal Justice and Public Order Act 1994

One of the main purposes of the licensing regime set out in the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 (“the Acts”) and Hackney Carriage Byelaws, is to ensure the protection of the public. For this reason a serious view is taken of convictions for offences under the Acts (including illegally plying for hire and/or touting) when deciding whether an applicant is to be treated as a fit and proper person to hold a licence.

In particular, an applicant will normally be refused a licence if (s)he has been convicted of an offence under the Acts in the previous 2 years or has more than one conviction within the last 5 years.

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13 March 2019		ITEM: 6
Licensing Committee		
Taxi and Private Hire Vehicles, Consultation on Statutory Guidance for Licensing Authorities		
Wards and communities affected: All		Key Decision: Key
Report of: Paul Adams, Joint Licensing Manager		
Accountable Assistant Director: Andy Millard, Assistant Director of Planning, Transportation and Public Protection.		
Accountable Director: Steve Cox, Corporate Director of Place.		
This report is Public		

Executive Summary

The Department for Transport are seeking views on proposed recommendations contained in draft statutory guidance to taxi and private hire vehicle (PHV) licensing authorities on how their licensing powers can be exercised in order to safeguard children and vulnerable adults.

This report introduces the draft statutory guidance and along with officers proposed response to the consultation, for consideration and input by the Licensing Committee.

1. Recommendation(s)

- 1.1 That the Licensing Committee considers the proposed draft guidance along with the draft response and feeds into the Licensing Department through the Chair any additional thoughts or comments for inclusion in the authority's response before 11 April 2019.**

2. Introduction and Background

- 2.1** The Department for Transport are seeking views on proposed recommendations contained in draft statutory guidance to taxi and private hire vehicle (PHV) licensing authorities on how their licensing powers can be exercised in order to safeguard children and vulnerable adults. A copy of the draft guidance is attached as **Appendix 1**.
- 2.2** Thurrock Council is a licensing authority for both Hackney Carriage and Private Hire (PHV) vehicles, drivers and operators.

2.3 The Council currently have issued the following licences:

- Private Hire Vehicles
- Hackney Carriage Vehicles
- Private Hire Operators
- Drivers

2.4 In relation to the Licensing of Drivers, the council currently requires:

- An Enhanced DBS Check, including barred list checks
- Certificate of good conduct for applicants that have resided abroad.
- DVLA group 2 standard Medical
- DVLA licence check
- Have passed the local knowledge test
- Have attended the CSE taxi driver training
- Have passed the Passenger Assistant Training Scheme (PATS)

The council also has a policy on the Relevance of Convictions, Cautions, Complaints and Related Matters, along with standards conditions that are attached to each licence.

2.5 In relation to vehicles the council has a Taxi Licensing Policy that covers the type and specification for vehicles, along with conditions around regular testing, inspection and maintenance.

2.6 In relation to Private Hire Vehicle Operators, the council has no policy, but applies the suitability tests contained within the legislation.

3. Issues, Options and Analysis of Options

3.1 A draft response to the questions posed in the consultation has been prepared by officers, for consideration and input by member of the Licensing Committee, and is attached as **Appendix 2**.

3.2 The Council already is in line with much of the proposed guidance and any changes would have minimal impact on those currently licensed with us. What national guidance would bring would be the start of a level playing field across the country for all licence holders, and combined with the proposals in the Governments response to their Report of the Task and Finish Group on Taxi and Private Hire Vehicle Licensing, is likely to see national minimum standards for all licensing authorities.

3.3 This consultation runs for 10 weeks, from 12 February 2019, until 22 April 2019. To enable officers to compile the Authorities response, it is suggested that Members wishing to add additional comment, do so via the Chair of Licensing Committee, by 11th April 2019.

4. Reasons for Recommendation

- 4.1 Members may require additional time to consider the consultation document. Officers will liaise with the chair on the final response before submission, to ensure all views are included.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 There is no requirement for any consultation in relation to this matter, this report in itself is the authorities consultation with members to seek a full view on behalf of the licensing authority.

6. Impact on corporate policies, priorities, performance and community impact

None

7. Implications

7.1 Financial

Implications verified by: **Laura Last**
Management Accountant

There are no direct financial implications arising from this report.

7.2 Legal

Implications verified by: **Simon Scrowther**
Principal Solicitor – Litigation and Employment

There are no legal implications of this report.

7.3 Diversity and Equality

Implications verified by: **Roxanne Scanlon**
Community Engagement and Project Monitoring Officer.

The draft guidance has been provided with a full impact assessment; no additional comments are required for this report.

7.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None

- 8. Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

None

9. Appendices to the report

- Appendix 1 – Taxi and Private Hire Vehicle Licensing: Protecting Users: Statutory Guidance for Licensing Authorities.
- Appendix 2 – Taxi and Private Hire Licensing Statutory Guidance: Impact Assessment.
- Appendix 3 – Taxi and Private Hire Vehicle Licensing: Protecting Users – Draft consultation response.

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Department
for Transport

Taxi and Private Hire Vehicle Licensing: Protecting Users

Statutory Guidance for Licensing Authorities

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1. Introduction

- 1.1 The Department first issued Best Practice Guidance to assist those licensing authorities in England and Wales that have responsibility for the regulation of the taxi and private hire vehicle (PHV) trades in 2006. Following consultation with stakeholders, taking into account their feedback on the original version, the Guidance was revised and updated in 2010.
- 1.2 There is evidence to support the view that taxis and PHVs are a high-risk environment. In terms of risks to passengers, this can be seen in the number of sexual crimes reported which involve taxi and PHV drivers. Data from Greater Manchester¹ and Merseyside² on reported sexual assaults 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% in the Crime Survey for England and Wales³.
- 1.3 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 who are over 18 from harm when using these services. For the purposes of this guidance, 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 2014⁴, 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.
- 1.4 There is consensus that common core minimum standards are required to regulate better the taxi and PHV sector, and the recommendations in this document are the result of detailed discussion and consideration. **The Department therefore expects these recommendations to be implemented unless there is compelling local reason not to.**

¹ https://www.whatdotheyknow.com/request/sex_attacks_2

² https://www.whatdotheyknow.com/request/taxi_private_hire_related_rapes#incoming-286178

³ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesinenglandandwales/yearendingmarch2017#main-points>

⁴ <http://www.legislation.gov.uk/ukpga/2014/23/section/42/enacted>

- 1.5 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Guidance issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxis and PHVs was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate the sector, this guidance would however cease to apply.
- 1.6 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*⁵ statutory guidance.
- 1.7 This new Statutory Guidance reflects the significant changes in the industry and lessons learned from experiences in local areas since the Department's Best Practice Guidance was last updated. 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).
- 1.8 This Statutory Guidance replaces relevant sections of the Best Practice Guidance issued by the Department in 2010. A consultation on revised Best Practice Guidance, which focuses on recommendations to licensing authorities to assist them in setting appropriate standards (other than those relating to passenger safety) to enable the provision of services the public demand, will be taken forward once the final Statutory Guidance has been issued.

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 guidance and refers to all such vehicles. Taxis are able to be hired immediately by hailing on the street or at a rank.

Private hire vehicles (PHVs) include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All PHV journeys must be pre-booked via a licensed PHV 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 **PHV** is used throughout this guidance to refer to all such vehicles.

⁵ <https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

2. Statutory Guidance

Consideration of the Statutory Guidance

- 2.1 The Government set out in the Modern Crime Prevention Strategy⁶ 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.
- 2.2 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 PHV licensing regimes. Both the Jay⁷ and Casey⁸ reports on CSAE highlighted examples of taxi/PHV 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.
- 2.3 The Casey Report made clear that weak and ineffective arrangements for taxi and PHV 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 formulation of this Statutory Guidance.
- 2.4 This Statutory Guidance 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).
- 2.5 The Guidance 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 PHV licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.6 “Having regard” to guidance requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that this is statutory guidance issued directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these recommendations cannot be overestimated.** It is not a question of box ticking; the recommendations must be considered rigorously and with an open mind.
- 2.7 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 this Guidance might be drawn upon in any legal

6

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/509831/6.1770_Modern_Crime_Prevention_Strategy_final_WEB_version.pdf

7 https://www.rotherham.gov.uk/downloads/file/1407/independent_inquiry_cse_in_rotherham

8 <https://www.gov.uk/government/publications/report-of-inspection-of-rotherham-metropolitan-borough-council>

challenge to an authority's practice, and that any failure to adhere to the Guidance without sufficient justification could be detrimental to the authority's defence. **In the interest of transparency however, the Department encourages all licensing authorities to publish their consideration of the recommendations contained in this Guidance and the policies and delivery plans that stem from these. The Department has already undertaken to monitor the effectiveness of the Statutory Guidance in achieving an appropriately high level of standards in taxi and PHV licensing with regard to the protection of passengers.**

- 2.8 This Guidance 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.

Licensing policy

- 2.9 The Department encourages licensing authorities to create a cohesive policy document that brings together all their procedures on taxi and PHV licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 2.10 When formulating a taxi and PHV 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 failings⁹.

"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."

- 2.11 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."

- 2.12 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 PHV sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere are 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.
- 2.13 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. It is therefore recommended that licensing authorities regularly review their licensing policies and their performance, but should also consider interim reviews should there be significant issues arising in their area.

Fit and proper test

- 2.14 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or PHV 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?

- 2.15 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 2.16 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 2.19 below) 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 therefore include information that goes beyond criminal convictions.

Administration of the licensing framework

- 2.17 A policy is only as effective as the way it is administered. The taxi and PHV 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 where 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.
- 2.18 It is essential that all those involved in the determination of licensing matters have received sufficient training and are adequately resourced to allow them to discharge the function effectively and correctly. The Department for Transport

supports the recommendation of the LGA that, as a minimum, training should cover licensing procedures, natural justice, understanding the risks of CSAE and disability and equality awareness in addition to any other issues deemed appropriate. Training should not simply relate to procedures, but should also cover the making of difficult and potentially controversial decisions – the use of case study material can be helpful to illustrate this. 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 the LGA can assist in the development of training packages.

2.19 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.

2.20 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.

2.21 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 2.19. 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.

2.22 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. 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.

2.23 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.

2.24 Regardless of which approach is adopted, all councils 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.

Whistleblowing

2.25 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in this Guidance and believe that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of this Guidance is to protect children and vulnerable adults, and by extension the wider public, when using taxis and PHVs. However, it is in the application of these 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. It is therefore recommended that licensing authorities have effective internal procedures for staff to raise concerns and procedures in place 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.

2.26 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 PHV] passengers in the manner in which licensing issues were addressed”*. We are pleased to note that the report concludes¹⁰, *“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.”*

2.27 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.

2.28 The Public Interest Disclosure Act 1988 (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.

Implementing changes to licensing policy and requirements

2.29 It is important to remember that 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

¹⁰ http://www.southribble.gov.uk/sites/default/files/FINAL_REPORT_JUNE_2016.pdf

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.

- 2.30 Where a more subjective change has been introduced, for example an amended policy on previous convictions, licensing authority must still consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities are able to do so. Licensing authorities should record the reasons for any deviation from the policies in place.

The Disclosure and Barring Service

- 2.31 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. 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.
- 2.32 The DfT's 2018 survey of taxi and PHV licensing authorities¹¹ shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal. The Department considers that all licensing authorities should also request a check of the barred lists in addition to the enhanced DBS check, for individuals applying for or renewing taxi and PHV driver licences.
- 2.33 Enhanced certificates with 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. The filtering rules allow for certain old and minor convictions to be removed from a DBS certificate after an appropriate period has passed, but they do not allow filtering where an individual has more than one conviction, has received a custodial sentence or has committed a specified serious offence such as those involving child sexual abuse. Full details of the filtering rules, and those offences which may never be filtered, are available from the DBS¹². As well as convictions and cautions, an

¹¹ <https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicle-statistics-england-2018>

¹² <https://www.gov.uk/government/collections/dbs-filtering-guidance>

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 detailed statutory guidance¹³ when considering disclosure. The information provided at each level of DBS checks is summarised in table 1.

- 2.34 It should be noted that licensing authorities must not seek to circumvent the legitimate filtering of previous criminal convictions and other information held by the DBS. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.
- 2.35 Whilst data protection legislation¹⁴ gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, you must not require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This is an offence under data protection legislation.
- 2.36 Driving a taxi or PHV is not, in itself, a regulated activity. This means that an individual subject to barring would not be legally prevented from being a taxi or PHV driver but the licensing authority should take an individual's barred status into account alongside other information available. It is the Department's opinion that, 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.
- 2.37 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the Safeguarding Vulnerable Groups Act 2006¹⁵. It is an offence to knowingly allow a barred individual to work in regulated activity. The guidance on home-to school travel and transport¹⁶ issued by the Department for Education should be considered alongside this document. Please see DBS guidance on driver eligibility and how to apply.

¹³ <https://www.gov.uk/government/publications/statutory-disclosure-guidance>

¹⁴ the full range of data protection legislation, not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)

¹⁵ <https://www.legislation.gov.uk/ukpga/2006/47/contents>

¹⁶ <https://www.gov.uk/government/publications/home-to-school-travel-and-transport-guidance>

INFORMATION INCLUDED IN CRIMINAL RECORD CHECKS				
Information included	Type of check			
	Basic	Standard DBS	Enhanced DBS	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	No	Yes	Yes
Additional police Information ³	No	No	Yes	Yes
Barred list(s) Information ⁴	No	No	No	Yes

Table 1

1. Cautions include reprimands and warnings, but not 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 disclosed on any level of certificate. Further guidance is available at <https://www.gov.uk/government/publications/dbs-filtering-guidance/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).

DBS update service

- 2.38 Licensing authorities should make use of the DBS update service. This subscription service allows licensees to keep their DBS certificates up to date online and, with the individual's consent, allows licensing authorities (as a nominee) to check the status of a certificate online at any time. Subscription to the service removes the need for repeat checks, reduces the administrative burden and mitigates potential delays in relicensing. Licensees should be required to evidence continuous registration and nomination throughout the period of the licence.
- 2.39 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 level and type of DBS certificate. 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. Licensing Authorities should therefore consider routinely checking the DBS certificates of their licence holders, for example every six months.
- 2.40 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check facility that can be accessed via a web service. The Multiple Status Check facility enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the Multiple Status Check facility is available from the DBS.¹⁷ As discussed above, for taxi and PHV driver licensing purposes the recommended level of check is always the enhanced level with check of the adult and children Barred lists. Other Workforce should always be entered at X61 line 1 and Taxi Licensing should be entered at X61 line 2.

Licensee self-reporting

- 2.41 As discussed above, the DBS update service is a valuable tool in discharging a licensing authority's duty to ensure that licence holders are fit to hold a licence. However, the routine checking of the DBS record should be in addition to a requirement that licence holders notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any motoring offence, or any offence involving dishonesty, indecency or violence. 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.
- 2.42 Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of, would be a breach of a licence condition and might therefore be seen as behaviour that questions honesty and

¹⁷ <https://www.gov.uk/government/publications/dbs-update-service-multiple-status-checking-guide>

therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

Referrals to DBS and the police

2.43 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS; for example, 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 in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the DBS¹⁸.

2.44 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;
- the DBS may consider it appropriate for the person to be added to a barred list.

2.45 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 available¹⁹.

2.46 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.

Overseas convictions

2.47 **The DBS cannot access criminal records held overseas.** 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. A licensing authority should ensure they have access to all the information available to them when making a decision whether to grant a licence, particularly when an applicant has previously lived outside the UK. It should be noted that it is the character of the applicant as an adult that is of interest, therefore a period outside the UK before

¹⁸ <https://www.gov.uk/government/publications/dbs-barring-referrals-local-authority-referral-duty-and-power/referral-duty-and-power-for-local-authorities-and-regulatory-bodies#local-authorities-as-regulated-activity-providers>

¹⁹ <https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs>

the age of 18 may not be relevant. For information on applying for overseas criminal record checks or 'Certificates of Good Character' please see the Home Office guidance²⁰. Licensing authorities should seek criminal records information from overseas when an applicant has previously lived outside the UK for a period of more than three continuous months to properly assess risk and support the decision making process.

- 2.48 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed, they should seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

Conviction policy

- 2.49 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.
- 2.50 Engagement with licensing authorities identified that greater direction from the Department was sought and in some cases required. The Department did not make specific recommendations regarding the assessment of convictions in the 2010 update of the Best Practice Guidance. In response to concerns raised by stakeholders and to assist in greater consistency in licensing, Annex A provides the Department's recommendations on this issue. 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 PHV licensees²¹. These periods should be taken as a minimum before a licence should be granted or renewed in all but truly exceptional circumstance. 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 each case must be considered on its own merits, and applicants are entitled to a fair and impartial public hearing of their application if required.

Common Law Police Disclosure

- 2.51 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 PHV drivers.

²⁰ <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

²¹ [https://instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_\(16_May_2018\).pdf](https://instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_(16_May_2018).pdf)

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.

2.52 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.

2.53 The new procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. We would therefore strongly recommend that licensing authorities maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.

Other information

2.54 The LGA's Councillors' Handbook on taxi and private hire vehicle (PHV) licensing²² 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."*

2.55 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 we strongly recommend that action taken as a result of information received is 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.

2.56 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.

2.57 As has been stated elsewhere in this guidance, 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 should therefore 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. For this process

²² <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

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.

- 2.58 The LGA's Taxi and PHV licensing Councillors' handbook²³ advises that Councils should meet or communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared. 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 PHV driver licence refusals and revocations (the register is known as 'NR3'). The use of tools such as NR3 by licensing authorities to share information on a more consistent basis would mitigate the risk of non-disclosure of relevant information by applicants.
- 2.59 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 PHV driver 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 practice²⁴.
- 2.60 If notification under paragraph 2.57 or 2.58 of a refused or revoked license is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. The information disclosed 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.
- 2.61 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 2.57, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should therefore review whether the licence holder remains 'fit and proper'.

Multi-agency Safeguarding Hub (MASH)

- 2.62 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)

²³ <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

²⁴ <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/>

should operate on three common principles: information sharing, joint decision making and coordinated intervention.

2.63 The Home Office report on Multi Agency Working and Information Sharing²⁵ 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 Groups²⁶ 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.

2.64 The Department recommends all licensing authorities should establish a means to facilitate the objectives of a MASH. As has been emphasised throughout this guidance, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and PHVs is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

Complaints against licensees

2.65 The LGA recommends that all councils should have a robust system for recording complaints, including analysing trends across the whole system as well as complaints against individual licensees²⁷. 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.

2.66 Licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that **must** be available on their website and displayed in 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 PHV driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged. A systematic recording of complaints will provide a further source of information to consider when renewing a licence for a driver or operator or identify problems during the period of the licence.

2.67 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.

²⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/338875/MASH.pdf

²⁶ https://www.childrenscommissioner.gov.uk/wp-content/uploads/2017/07/If_only_someone_had_listened.pdf

²⁷ <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

- 2.68 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 2.104 - 2.106.

Duration of licences

- 2.69 The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and PHV drivers and five years for PHV operators. Any shorter duration should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case. Such circumstances could include where the licensing authority considers that a probationary period is necessary 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.
- 2.70 A previous argument against this length of licence 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 by requiring licensees to subscribe to the DBS update service as discussed in paragraphs 2.38 – 2.40 and authorities to undertake regular interim checks. To help authorities monitor licensees’ suitability, police forces should inform licensing authorities when they believe a licensee presents a risk to the travelling public. Paragraphs 2.51 - 2.53 provide further information about this process.

Safeguarding awareness

- 2.71 Licensing authorities should consider the role that those in the taxi and PHV 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.
- 2.72 It is the Department’s recommendation that licensing authorities provide safeguarding advice and guidance to the trade and that taxi and PHV drivers are required 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.

- 2.73 In February 2018, the Department for Education (DfE) launched phase 3 of its nationwide campaign – ‘Together we can tackle child abuse’. Building on phases 1 and 2, which ran in 2016 and 2017, it aims to increase public understanding of how to recognise and report child abuse and neglect. The DfE has developed an online toolkit²⁸ of material for local authorities, charities and other organisations to use to support the campaign.

Other forms of exploitation – ‘County lines’ drug trafficking

- 2.74 Victims of exploitation may not appear as such at first sight. 74% of police forces noted the exploitation of vulnerable people (including children) by gangs and organised criminal networks involved in trafficking illegal drugs within the UK²⁹ to move and store drugs and money across the country, often from urban areas to regional locations. They will frequently use coercion, intimidation, violence (including sexual violence) and weapons. This gang activity (known as county lines), and the associated violence, drug dealing and exploitation has a devastating impact on young people, vulnerable adults and local communities.
- 2.75 The National Crime Agency’s updated annual threat assessment of county lines reported that county lines groups are using taxis and PHVs as a method of transportation. In that assessment, 33% of police forces in England and Wales (14 forces) reported use of taxis and PHVs to transport drug couriers between markets. These couriers are often young people who have been exploited and may be victims of trafficking; the typical age range is 15-17 years old, but may be much younger. They may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues or reported as missing.
- 2.76 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:
- young people, sometimes as young as 12, travelling in taxis 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.

²⁸ <https://tacklechildabuse.campaign.gov.uk/>

²⁹ <http://www.nationalcrimeagency.gov.uk/news/1247-latest-threat-update-estimates-at-least-720-county-lines-drug-dealing-lines>

2.77 The Home Office is working with partners to raise awareness of county lines and has produced promotional material that can be used by taxi and PHV companies.³⁰

2.78 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

2.79 Authorities should consider whether an applicant would have any problems in communicating with customers because of language difficulties. Licensing authorities have the freedom to specify the level of proficiency, but it is recommended to cover both oral and written English language skills necessary to fulfil their duties, including in emergency and other challenging situations. This should include:

- conversing with passengers to demonstrate an understanding of the desired destination, an estimation of the time taken to get there and other common passenger requests;
- providing a customer with correct change from a note or notes of higher value than the given fare, and doing so with relative simplicity;
- providing a legibly written receipt upon request.

Enforcement

2.80 Implementing an effective framework for licensing authorities is essential to a well-functioning taxi and PHV sector. These steps will help prevent the licensing of drivers that are not deemed ‘fit and proper’ but does not ensure that those already licensed continue to display the behaviours and standards expected.

2.81 We have discussed the benefits of licensing authorities working collaboratively in regard to the sharing of information, and this can equally apply to enforcement powers. 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. Together with increased clarity for the public on complaining, these measures will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and

³⁰https://www.gov.uk/government/publications/county-lines-posters-for-taxi-and-private-vehicle-hire-staff?utm_source=HO&utm_campaign=LA

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' handbook³¹.

2.82 It is not reasonable to expect drivers to adhere to a policy unless they 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.

2.83 The Department suggest that there should be a clear, simple and well-publicised process for the public to make complaints about drivers and operators. 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

2.84 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

2.85 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 PHV sector has been issued by the Home Office³². 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.

2.86 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the

³¹ <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

³² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/613415/A_Licensing_Authority_guide_to_right_to_work_checks_-_England_and_Wales.pdf

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.

- 2.87 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 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.
- 2.88 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.
- 2.89 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.

Criminal record checks for PHV operators

- 2.90 As with driver licensing, the objective in licensing PHV operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles they dispatch are above all else safe. It is important therefore that licensing authorities are assured that the operators they license also pose no threat to the public and have no links to serious criminal activity. Although an operator may not have direct contact with passengers, they are still entrusted to ensure that the drivers and vehicles used to fulfil a booking are appropriately licensed and so 'fit and proper'. PHV operators are also frequently provided with sensitive information such as periods when a home may be vacated as the residents are on holiday. Those making licensing decisions should consider whether they would be content for an applicant to hold sensitive information and are confident that this would not be misused.
- 2.91 PHV operators (as opposed to PHV drivers) are not eligible for standard or enhanced criminal records checks. We recommend that licensing authorities request a criminal conviction certificate (Basic disclosure) from the DBS. Any individual may apply for a Basic check and the certificate will disclose any unspent convictions recorded on the PNC. Licensing authorities should consider whether an applicant or licence holder with a conviction for offences detailed in Annex A (other than those relating to driving) meet the 'fit and proper' threshold.
- 2.92 PHV operator 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 PHV

operators should be required to advise the licensing authority of any changes to the directors or partners.

- 2.93 Individuals, directors or partners granted a PHV operator licence should be required to subscribe to the DBS update service as a condition of licensing and licensing authorities should consider routinely checking the DBS certificates of their licence holders, for example every six months
- 2.94 As explained earlier in the context of driver licensing, the **DBS cannot access criminal records held overseas**. 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. A licensing authority should ensure they have access to all the information available to them when making a decision whether to grant a licence, particularly when an applicant has previously lived outside the UK. It should be noted that it is the character of the applicant as an adult that is of interest, therefore a period outside the UK before the age of 18 may not be relevant. For information on applying for overseas criminal record checks or a 'Certificate of Good Character' please see the Home Office guidance³³ on criminal record checks for overseas applicants. Licensing authorities should seek criminal records information from overseas when an applicant has previously lived outside the UK for a period of more than three continuous months to properly assess risk and support the decision making process.
- 2.95 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in Annex A, they should seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

PHV Operators - ancillary staff

- 2.96 PHV drivers are not the only direct contact that PHV users have with PHV operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle controller decides which driver to send to a user, a position that could be exploited by criminals. It is therefore appropriate that all staff that have contact with PHV users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 2.97 Licensing authorities should be satisfied that PHV 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 request that, as a condition of granting an operator licence, a register of all staff that will take bookings or dispatch vehicles is kept. The operator should be required to evidence that they have had sight of a Basic DBS check on all individuals listed.
- 2.98 Operators or applicants for a licence should also be required 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 PHV operators' licence, those with a

³³ <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

conviction for offences detailed in Annex A (other than those relating to driving) may not be suitable to handle the sensitive information the public may provide (e.g. that their home is likely to be empty between certain dates) or to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

- 2.99 Those granted an operator licence should be required to maintain a register of staff that take bookings and/or control vehicles and 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.

PHV Operators – Use of passenger carrying vehicles (PCV) licensed drivers

- 2.100 Members of the public are entitled to expect when making a booking with a PHV operator that they will receive a PHV 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 PHV booking should not be permitted as a condition of the PHV operator's licence. Drivers of PSVs who are PCV licence holders are not subject to the same checks as PHV drivers, as the work normally undertaken, i.e. driving a bus or coach, does not present the same risk to passengers.

PHV Operators - record keeping

- 2.101 Section 56 of the Local Government (Miscellaneous Provisions) Act 1976³⁴ requires PHV 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. The particulars to be recorded may be specified by the licensing authority as a condition of the operator licence. The Department recommend that this information should include:

- 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.

- 2.102 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 six months is generally appropriate as the length of time that records should be kept.

³⁴ <http://www.legislation.gov.uk/ukpga/1976/57>

- 2.103 PHV 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.

In-vehicle visual and audio recording – CCTV

- 2.104 Government has acknowledged the potential risk to public safety when passengers travel in taxis and PHVs. In 2012 the Government enabled licensing authorities to undertake enhanced DBS checks. The Department appreciates that all licensing authorities have recognised the risk posed by the very small minority of licensed drivers and undertake this level of check. It is unfortunately the case that no matter how complete the information available to licensing authorities is, nor how robust the policies in place are and the rigor with which they are applied, it will never remove the possibility of harm to passengers by drivers. 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/PHV 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.

- 2.105 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 Wales³⁵ only 17% of victims report their experiences to the police, 28% 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.

- 2.106 The mandatory installation of CCTV in vehicles may deter people from seeking a taxi or PHV 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.

- 2.107 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 and targeted i.e. only when

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<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesinenglandandwales/yearendingmarch2017#main-points>

passengers (or drivers) consider it necessary and all parties should be made aware that a recording is being made. 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.

- 2.108 It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and PHV 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.
- 2.109 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.
- 2.110 The Home Office '*Surveillance Camera Code of Practice*'³⁶ 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
- 2.111 The Code also sets out 12 guiding principles which, as a 'relevant authority' under the Protection of Freedoms Act 2012³⁷, 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.

³⁶ <https://www.gov.uk/government/publications/surveillance-camera-code-of-practice>

³⁷ [Section 33\(5\) of the Protection of Freedoms Act 2012](#)

- 2.112 The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '*Passport to Compliance*'³⁸ 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 Office³⁹ (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 tool⁴⁰ to assist operators to ensure compliance with the principles set out in the Surveillance Camera Code of Practice. The SCC also operate a certification scheme⁴¹; 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.
- 2.113 The Data Protection Act 2018⁴² 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 guidance⁴³ on how data controllers can ensure compliance with these.
- 2.114 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 guidance⁴⁴ 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. Licensing authorities should consult on this issue 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 PHV users, including children or vulnerable adults.
- 2.115 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

38 <https://www.gov.uk/government/publications/passport-to-compliance>

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

40 <https://www.gov.uk/government/publications/surveillance-camera-code-of-practice-self-assessment-tool>

41 <https://www.gov.uk/government/publications/surveillance-camera-code-of-practice-third-party-certification-scheme>

42 <http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>

43 <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/>

44 <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/security/>

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.

- 2.116 All passengers must be made aware if CCTV is operating in a vehicle. 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.

Stretched Limousines

- 2.117 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as PHVs. 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. Indeed, the Department’s view is 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 service from the scope of the PHV 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.
- 2.118 Stretched large limousines which clearly have more than eight passenger seats should not in most circumstance be licensed as PHVs because they are outside the licensing regime for PHVs. However, under some circumstances the Individual Vehicle Approval (IVA) regime accepts vehicles with space for more than eight passengers, particularly where the precise number of passenger seats is hard to determine. In these circumstances, if the vehicle has obtained an IVA certificate, 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.

Consultation at the local level

- 2.119 It is good practice for licensing authorities to consult on any significant proposed changes in licensing rules. Such consultation should include not only the taxi and PHV 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.

- 2.120 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and PHV sector in neighbouring areas; it would therefore be good practice to engage with these to identify any concerns and issue that might arise from a proposed change. Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; the Department considers this approach to be good practice.

Annex A – Previous convictions guidance

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 PHV 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 public hearing of their application if required. The periods given below should be taken as a minimum before a licence should be granted or renewed in all but truly exceptional circumstance. 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

Where an applicant has a conviction for an offence of violence, 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 7 years have elapsed since the completion of any sentence imposed.

Sex and indecency offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, 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 of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 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 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing 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 7 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 of 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 PHV 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/using a hand-held telephone or hand held device whilst driving

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 7 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 will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

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 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Annex B - 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 PHVs e.g.:

- a taxi can be flagged down or pre-booked.
- a PHV that has not been pre-booked should not be used as it will not be insured and may not be licensed.
- what a PHV 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.

Title: Taxi and Private Hire Licensing – Statutory Guidance IA No: DfT00399 RPC Reference No: N/A Lead department or agency: Department for Transport Other departments or agencies:	Impact Assessment (IA)	
	Date: 04/02/2019	
	Stage: Consultation	
	Source of intervention: Domestic	
	Type of measure: Other	
	Contact for enquiries: Paul Elliott	

Summary: Intervention and Options**RPC Opinion:** RPC Opinion Status**Cost of Preferred (or more likely) Option**

Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out	Business Impact Target Status
£194.71m	£194.71m	£22.62m	Not in scope	Qualifying provision

What is the problem under consideration? Why is government intervention necessary?

After the failings highlighted in the Jay and Casey Reports into the sexual exploitation of children in Rotherham, and similar failings elsewhere in which taxi and private hire vehicle (PHV) drivers played a prominent role, legislation was brought forward via the Policing and Crime Act (PCA) 2017 to enable the issuing of statutory guidance to licensing authorities (LAs) to mitigate the risk of further abuse. Any taxi or PHV may carry a child or vulnerable person in their vehicle at some time, so it is not possible to restrict the application of the guidance to any sub-set of drivers or the sector; the costs/benefits of the proposed intervention therefore apply to the full breadth of authorities' taxi and PHV licensing activity.

What are the policy objectives and the intended effects?

The policy objective is to mitigate as far as practicable the risk to children and vulnerable adults when using taxis and PHVs. The method to achieve this is through inducing consistently high licensing requirements and high standards of rigor in the 'fit and proper' driver assessment among taxi and PHV LAs, in respect of passenger safeguarding. The adoption of the robust requirements, administration and enforcement of taxi and PHV licensing proposed in the draft statutory guidance will mitigate the risk to passengers when using taxi and PHVs and, in the case of in-vehicle CCTV, also mitigate the risk to the drivers of these vehicles from crime.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

The following options have been considered:

1. Do nothing - continued reliance on LAs to address deficiencies in standards or processes.
2. Continue to issue best practice guidance only - considered less likely to produce consistency than issuing statutory guidance
3. Issue statutory guidance (Preferred Option) - places a higher degree of compulsion on LAs to meaningfully consider the recommendations, and is already permitted in legislation PCA 2017
4. Mandate minimum standards through primary legislation - ultimately a stronger solution, but would delay increased consistency in standards (and resulting benefits) as new legislation would need to be drafted, then considered by Parliament.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 11//2019

Does implementation go beyond minimum EU requirements?		N/A		
Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)		Traded: N/A	Non-traded: N/A	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: _____

Date: _____

Summary: Analysis & Evidence

Policy Option 2

Description: This would include the measures outlined in the draft statutory guidance within the updated draft best practice guidance. The Department could engage with the 293 licensing authorities in England to encourage high adoption rates of the recommendations to increase consistency in standards.

FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2017	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best NQ Estimate: £194.71m

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	NQ		NQ	NQ
High	NQ		NQ	NQ
Best Estimate	NQ		NQ	NQ

Description and scale of key monetised costs by 'main affected groups'
 CCTV Installation costs are estimated at £608 per vehicle.
 Familiarisation costs would also apply as drivers would need to become familiar with the guidance and comply with it. These costs would ultimately depend on the how many licensing authorities would decide to comply with the guidance.

Other key non-monetised costs by 'main affected groups'
 Costs of DBS checks on Operator staff.
 Costs to licensing authorities who choose to comply will have costs associated with setting the scheme, rolling out the scheme and maintaining it.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	NQ		NQ	NQ
High	NQ		NQ	NQ
Best Estimate	NQ		NQ	NQ

Description and scale of key monetised benefits by 'main affected groups'

Other key non-monetised benefits by 'main affected groups'
 Improved passenger safety due deterrence of crime cause by CCTV.
 Enhanced user confidence due to higher safety.
 Increased passenger demand due to higher user confidence.

Key assumptions/sensitivities/risks	Discount rate	3.5%
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We have not analysed this option as licensing authorities are not obliged to pay regard to best practice guidance, and the Department does not consider this option an adequate response to the policy need. It is likely that the variation of standards across authorities would mean adoption would be slow and the risk to passengers would remain.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: NQ	Benefits: NQ	Net: NQ	

Summary: Analysis & Evidence

Policy Option 4

Description: This option would introduce legislation to enable the setting of national standards (either absolute or minimum). It would mean all taxi and PHV vehicles would be subject to mandatory CCTV installation and all operators would be mandated to carry DBS checks on operator staff.

FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2017	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best: -£311.54m

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	NQ		NQ	NQ
High	NQ		NQ	NQ
Best Estimate	£177.75m		£13.38m	£311.54m

Description and scale of key monetised costs by 'main affected groups'

CCTV Installation costs are estimated at £608 per vehicle. The total discounted cost of installing CCTV is £305.85m
Familiarisation costs: £5.70m

Other key non-monetised costs by 'main affected groups'

Costs of DBS checks on Operator staff.
Costs to licensing authorities who choose to comply will have costs associated with setting the scheme, rolling out the scheme and maintaining it.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	NQ		NQ	NQ
High	NQ		NQ	NQ
Best Estimate	NQ		NQ	NQ

Description and scale of key monetised benefits by 'main affected groups'

Other key non-monetised benefits by 'main affected groups'

Improved passenger safety due deterrence of crime cause by CCTV.
Enhanced user confidence due to higher safety.
Increased Passenger demand due to higher user confidence.

Key assumptions/sensitivities/risks

Due to limited data availability and likely underreporting, the exact rates of crime are unknown. We have however used evidence from individual FOI's and case studies in certain areas as a proxy for likely crime rates nationally. We have assumed that the number of vehicles in the implementation year is at the steady state so the number of vehicles in the implementation year is the same as the number in the final year. We think that overall, this is proportionate.

Discount rate

3.5%

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: £305.19m	Benefits: NQ	Net: -£36.19m	

Summary: Analysis & Evidence

Policy Option 3

Description: This makes use of the powers enabled under the PCA 2017 to issue statutory guidance to which licensing authorities must have regard. It is expected that this will achieve the objective of raising standards and improving the rigour of licensing assessments. This could be achieved in a shorter timescale than introducing primary legislation, and so mitigates the risk of ongoing and potential safeguarding failures.

FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2017	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -£155.77m	High: -£233.66m	Best -£194.71m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant	Total Cost (Present Value)
Low	£88.87m	£8.59m	£155.77m
High	£133.31m	£12.89m	£233.66m
Best Estimate	£111.09m	£10.74m	£194.71m

Description and scale of key monetised costs by 'main affected groups'

The most significant potential cost as a result recommendation in the draft statutory guidance would be the purchase and installation of CCTV in vehicles; these would fall on the owners of taxis and PHVs, in most instances the drivers, and is estimated to cost around £608 per vehicle. Familiarisation costs would also apply to all drivers and operators as they would need to understand new licensing requirements and the steps to compliance. Familiarisation costs would be expected to be between £2.85m to £4.27m and would occur in the implementation year only.

Other key non-monetised costs by 'main affected groups'

Increased costs of conducting DBS checks on PHV operator staff and the installing of CCTV system would likely be, at least in part, passed on to the users of these services through marginally higher fares. There would be an initial cost of setting up such a scheme and costs associated with implementing and maintaining the scheme. These costs would initially fall on licensing authorities which may be passed on to drivers through higher licensing costs.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant	Total Benefit (Present Value)
Low	NQ	NQ	NQ
High	NQ	NQ	NQ
Best Estimate	NQ	NQ	NQ

Description and scale of key monetised benefits by 'main affected groups'

We have not been able to monetise the key benefits associated with this policy due to the nature of the benefits and due to the lack of robust data. We have, however, provided case studies on the cost of crime as well as some illustrative examples of the effect of CCTV on crime prevention as a means of highlighting the magnitude of impacts that could be expected from such a policy.

Other key non-monetised benefits by 'main affected groups'

Installing CCTV in vehicles has the potential to deter crime and significantly improve passenger safety. This crime prevention and improvement in passenger safety would likely lead to enhanced user confidence which may facilitate higher passenger demand. Passengers might benefit from lower fares if crime reduction was significant enough to reduce insurance premiums for drivers but this is difficult to quantify.

Key assumptions/sensitivities/risks

We have made an assumption on the likely take up rates of CCTV. Due to the high level of uncertainty surrounding this figure we believe presenting two rates is the most prudent approach, a low scenario of 50 per cent and a high scenario of 75 per cent. Due to limited data availability and likely underreporting of crime the exact rates of crime are unknown. We have however used evidence from individual FOI's and case studies in certain areas as a proxy for likely crime rates nationally.

Discount

3.5%

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: -£22.62m	Benefits: NQ	Net: -£22.62m	

Evidence Base (for summary sheets)

Background

In both the taxi and PHV markets, the vast majority of drivers are self-employed, and most lease or own their own vehicle. In the pre-booked market, there is a diverse range of market providers, from national operators such as Uber, big regional operators like Addison Lee or Delta to small local operators and independent driver/operators.

The Government is responsible for setting the regulatory structure within which licensing authorities in England license taxi and PHV drivers. Taxi and private hire licensing in Scotland, Northern Ireland and Wales is devolved. There are 293 licensing authorities in England, each able to set their own standards, including in respect of safety. Legislation however permits pre-booked journeys to be undertaken outside the area in which the driver, vehicle and operator are licensed. While this freedom can provide significant benefits to the public through increased competition and availability, concerns are frequently expressed that passengers are not adequately protected due to different standards among licensing authorities and the inability of licensing officers to take action against drivers licensed by other authorities. It should however be noted that frequently the differing standards do not relate to safety.

Several independent reports into child sexual abuse/exploitation have identified the significant role that those working within the taxi and PHV industry have played; this includes perpetrating offences (in vehicles and elsewhere) and the trafficking of victims. There is a recognition among licensing authorities that failings in the licensing of taxi and PHV services in some areas has significantly contributed to the abuse of children and vulnerable adults. For context, it is widely accepted that over 1,400 children were victims of abuse because of safeguarding failings in Rotherham. In response, section 177 of the Government's Policing and Crime Act 2017 enabled the Secretary of State for Transport to issue statutory guidance in relation to measures that will protect children and vulnerable adults from harm while using taxis and PHVs.

It should be noted that as policing and criminal justice is not a devolved matter, the statutory guidance issued under the Policing and Crime Act 2017 will continue to have effect in Wales despite devolution of responsibility for taxis and PHVs to the Welsh Assembly in April 2018. The statutory guidance would however cease to apply should the Welsh Assembly bring forward its own taxi and PHV legislation. In advance of devolution the Welsh Government consulted on reforming regulation of the sector.

Licensing authorities in England are, with the exception of Transport for London (TfL) in Greater London, local authorities. As well as a requirement to consider the recommendations contained in the statutory guidance local authorities and the Greater London Assembly authorities have a wider duty under section 17 of the Crime and Disorder Act 1998; this places a direct responsibility on these authorities to prevent crime and disorder in their area. Authorities therefore must regard the likely effect of the licensing function and need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment). This is a particular concern for taxi and PHV drivers; the nature of their work makes them a particularly vulnerable group.

The Department believes public safety benefits will accrue from the introduction of the recommendations made in the draft statutory guidance; adoption levels and crime figures will be used to assess if those proposed in the final statutory guidance have been effective in its policy objectives of mitigating the risk of harm to taxi and PHV passengers. Given the importance of this issue, an early review is deemed necessary.

Rationale for intervention

While the Government acknowledges the efforts of some licensing authorities, operators and drivers to address public safety risks, the Government consider it necessary to act to ensure consistently high standards throughout the sector by setting out its opinion on what should be considered as part of suitable 'fit and proper' assessments and other safeguarding measures. This will introduce a set of minimum standards that the Government considers appropriate to protect passengers; passengers will be assured that any driver will have been considered in similar way against a common standards regardless of the licensing authority. This will also level the 'playing field' and enable fairer competition

among drivers and operators by restricting the opportunity to seek out a competitive advantage through reduced costs resulting from unacceptably low standards.

There is evidence to support the view that taxis and PHVs are a high-risk environment. In terms of risks to passengers, this can be seen in the number of sexual crimes reported which involve taxi and PHV drivers. A 2014 Freedom of Information (Fol) request made to Greater Manchester Police¹ found there was 37 sexual offences which were “taxi related and/or the victim/offender relationship was that of passenger/driver or driver/passenger” in the previous calendar year. In March 2013 11,977 licensed vehicles or approximately 5.41% of the fleet in England were licensed by a Greater Manchester authority. A Fol request made to Merseyside Police indicated 22 assaults in 2011², at this time Merseyside accounted for 4.00% of licensed vehicles. In Kent 6 sexual offences were reported where the suspect was reported to be an on duty taxi or PHV driver, at this time 1.02% of England’s taxi and PHV were licensed there³. If similar offences patterns are applied across England it would suggest over 623 sexual assaults per year, with a total cost of £25.6million (2014 prices) based on the average cost of £41,142 (2014 £)⁴ per offence⁵. These figures do not account for the under reporting of crime which is estimated to be as high as 83% in the Crime Survey for England and Wales⁶. This evidence shows that the true costs of sexual offences could be substantially higher than reported crime figures suggest. In addition, the survey also highlights that 28% of victims report not being believed as the primary reason for not reporting the crime. This is of particular relevance to the recommendations on CCTV in vehicles.

Problem under consideration

Differing standards in licensing requirements and the rigour with which ‘fit and proper’ assessments are made have contributed to failings in the protection of passengers using taxis and PHVs. Engagement with MPs, licensing authorities and other stakeholders has identified a need and desire to harmonise the assessment regime in response to past failings. This will also mitigate the safety concerns that result from drivers licensed by authorities with lower safety standards operating in areas other than that in which they are licensed.

Some licensing authorities have cited a concern, both to the Department and during the 2012-2014 Law Commission review⁷, that their ability to raise standards is hindered as operators and drivers may “migrate” to authorities that have lower standards. Strong recommendations from the Department are needed to galvanise a proactive review of safety concerns and potential measures to mitigate the risk posed to passengers of taxis and PHVs in all licensing authority areas.

In England and Wales, about 53% of taxi and PHV drivers are non-white⁸, a much higher than average percentage of the workforce. A report in 2008 commissioned by the Department revealed that drivers of taxis and PHVs consistently experience verbal abuse from passengers, often racially motivated⁹. This ranges from casual or dismissive rudeness to severe abuse that can be threatening and includes racist abuse for drivers from Asian and other minority ethnic communities. Almost all the drivers interviewed for that study experienced verbal abuse at least once a week and, for a significant minority, it was a much more frequent occurrence. Almost none of these incidents will be reported to the police unless they escalate into a violent incident where assistance from the police or other emergency services is sought. Such behaviour is unacceptable and licensing authorities should consider their duties under the Crime and Disorder Act 1998 to quantify and tackle this issue in their area.

Policy objective

¹ https://www.whatdotheyknow.com/request/sex_attacks_2

² https://www.whatdotheyknow.com/request/taxi_private_hire_related_rapes#incoming-286178

³ <https://www.whatdotheyknow.com/request/415791/response/1022748/attach/html/4/17%2007%20693%20Appendix.pdf.html>

⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/191498/Green_Book_supplementary_guidance_economic_social_costs_crime_individuals_households.pdf

⁵ <http://webarchive.nationalarchives.gov.uk/20110218140137/http://rds.homeoffice.gov.uk/rds/pdfs/hors217.pdf>

⁶ The CSEW provides reliable estimates of the prevalence of sexual assaults using a consistent methodology that is not affected by changes in recording practices and police activity or by changes in the propensity of victims to report to the police.

⁷ “Taxi and Private Hire Services”, The Law Commission (LAW COM No 347), May 2014

⁸ http://www.lawcom.gov.uk/app/uploads/2015/03/lc347_taxi-and-private-hire-services.pdf

⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/642759/taxi-private-hire-vehicles-2017.pdf

⁹ <http://www.national-taxi-association.co.uk/wp-content/uploads/2011/01/Research-on-the-personal-security-issues-for-taxi-and-PHV-drivers-DFT.pdf>

The policy objective is to increase the consistency of licensing requirements set by taxi and PHV licensing authorities in England and the quality of decisions they make in respect of passenger safeguarding (and by doing so, protect children and vulnerable adults from harm).

The taxi and PHV licensing legislation is enabling by nature and so licensing requirements cannot be imposed by Government. However, the adoption by licensing authorities of the recommendations contained in the final statutory guidance would provide a set of core common standards relating to passenger safety.

The draft statutory guidance focusses on ways licensing authorities can ensure that decisions are based on the most complete information available, whether this is 'soft intelligence' held internally or from other public protection bodies, better use of the Disclosure and Barring Service (DBS) or the use of in-vehicle CCTV footage. Adoption of these recommendations by all licensing authorities would significantly mitigate risk to passengers, irrespective of which authority issued the licenses.

Description of options considered

1. **Do nothing** – This would potentially leave the children and vulnerable adults that section 177 of the PCA 2017 seeks to protect at continued risk of sexual abuse and exploitation. We would continue to rely upon individual licensing authorities to identify, and more importantly address, deficiencies in their licensing policy or administration.
2. **Continue to issue only best practice guidance** – This would include the measures outlined in the draft statutory guidance within updated best practice guidance. The Department could engage with the 293 licensing authorities in England to encourage high adoption rates of the recommendations to increase consistency in standards. The Department has issued best practice guidance for more than 10 years, which has achieved a degree of consistency on some issues, but this safety critical issue requires more compelling action. Data from the Department's survey of taxi and PHV licensing authorities evidences that not all are making the best use of their powers, for example, not all undertake an enhanced and barred lists check via the Disclosure and Barring Service. Given the high number of licensing authorities and the current variance in standards, and more so the rigor of 'fit and proper' assessments, achieving a high adoption level of strengthened safety recommendations is likely to be a lengthy process. During this time the current level of risk would remain. Licensing authorities are not obliged to pay regard to best practice guidance, and the Department does not consider this option an adequate response to the policy need.
3. **Statutory guidance (preferred option)** – This makes use of the powers enabled under the PCA 2017 to issue statutory guidance to which licensing authorities must have regard. It is expected that this will achieve the objective of raising standards and improving the rigour of licensing assessments where either of these is deficient in a shorter timescale than introducing primary legislation, and so mitigates the risk of ongoing and potential safeguarding failures.

While statutory guidance may not achieve complete adoption of all of the recommendations, it is the Department's view that evidence resulting from thorough local assessment of the potential benefits will achieve a very high adoption rate. This is in the context of the duty of local authorities (which usually act as licensing authorities) have under section 17 of the Crime and Disorder Act 1998 to:

...exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent,

- (a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); and*
- (b) the misuse of drugs, alcohol and other substances in its area; and*
- (c) re-offending in its area.*

4. **Primary Legislation** – this option would introduce legislation to enable the setting of national standards (either absolute or minimum). Although Government support this objective until the parliamentary process to enable national standards is complete, the current risk to children and vulnerable adults (and by extension all passengers) when using taxis and PHVs will persist.

Recommendation - Statutory guidance as the preferred option based on the ability to bring about greater passenger safety through increased consistency in the regulation of the taxi and PHV sector in the shortest possible time and in advance of legislation to enable national minimum standards. The recommendations in the final statutory guidance will be the starting point when considering measures for inclusion in national minimum standards.

Key recommendations in the draft Statutory Guidance

Enhanced Disclosure and Barring Service and barred list checks for drivers

The Department's Taxi and Private Hire Vehicles Statistics published in September 2018¹⁰ shows that as of 31 March 2018, all licensing authorities have a policy that an enhanced DBS check must be undertaken as part of the assessment as to whether a taxi or PHV driver licence should be issued. There are however 45 authorities (15%) that did not require the enhanced DBS with barred lists check as recommended in the draft statutory guidance. Since the cost of 'enhanced' and 'enhanced with barred lists' check are the same, it is expected that there are no additional costs of the proposal as part of a driver licence application or renewal assessment. An enhanced check with barred lists shows the same information as an enhanced check plus whether the applicant is on the list of people barred from working with children and/or vulnerable adults.

In addition, the draft guidance also recommends that licensing authorities mandate that licence applicants and holders subscribe to the DBS update service, and that the authority conducts biannual checks. As of March 2018 83% of licensing authorities reported that a routine review of the DBS record was only undertake every three years for taxi and PHV drivers. The Department believes a biannual check is a proportionate measure; a licensed vehicle is subject to a condition check at least once a year and it is reasonable that drivers are subject to more frequent checks than most are currently.

The cost of a biannual DBS check via the update is £13 against £88 for the paper version (£44 per check). To avoid unnecessary administrative burden for the licensing authority and expense for the licence holder, the Department recommends that licensing authorities should require licence holders to subscribe to the DBS update service. The update service enables licensing authorities to request updated information electronically from DBS rather than requesting a new paper certificate be issued. Further action on the part of the licensing authority would only be required if new information was provided via the update, which the licensing authority would need to consider against its licensing policy. Subscription to the DBS update service will also provide benefits to the trade through greater continuity of licensing, removing the risk of void periods caused by delays in obtaining a new DBS paper certificate.

In-vehicle CCTV

Government has recognised that taxis and PHVs present a high risk environment to passengers and drivers - this is due to the characteristics of the trade i.e. both passengers and drivers may be alone and potentially vulnerable. In the case of risk to passengers this was reflected in the decision in 2012 to enable licensing authorities to request enhanced DBS and barred list checks for all drivers, a check usually reserved for those undertaking a 'regulated activity'. This risk was further recognised by Government and Parliament in passing the legislation enabling the issuing of the Statutory Guidance to protect children and vulnerable adults from harm when using taxi and PHV services.

The high risk of antisocial behaviour and violence posed to drivers should also be considered as part of this impact assessment. As part of the Law Commission's 2014 review of taxi and PHV regulation, passenger and driver safety was considered. The Law Commission consultation also found that *"Stakeholders agreed that driver safety was a major concern, and it was widely regarded as not appropriately addressed or given adequate consideration under the current regulatory framework. Many stakeholders told us of harassment, robberies and assaults. Serious attacks are often reported in the press, and the murders of taxi and private hire drivers in disputes stemming from their work are, sadly, not rare."* The Commission engaged extensively and found that *"A number of stakeholders, particularly within the taxi trade, were strongly in favour of a mandatory CCTV requirement."* The report went on to

¹⁰<https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicle-statistics-england-2018>

conclude that “*The evidence we collected during consultation suggests that safety concerns for drivers are best dealt with by requiring safety equipment in vehicles, such as CCTV and vehicle partitions. Furthermore, purpose-built vehicles with in-built safety features are more common in the taxi industry, and regulation should be capable of taking account of this.*”

In the Law Commission’s Impact Assessment¹¹ an assumption was made that 50% of the 63 taxi or PHV drivers murdered over a 20 year period were related to their occupation and that the best estimate (based on preventing 2 deaths per year) would provide annual savings of £3.7million (2014 prices).

Due to the differing ways in which crime is recorded by different police forces and the under-reporting of crime, the actual level of offences committed by and against drivers is not known. A report for the Department in 2008 indicated the scale of the problem, which was also identified in the Law Commission’s 2014 report.

The true potential benefits of CCTV in terms of crime reduction are difficult to quantify given the underreporting of crime and limited data available on the effectiveness of CCTV in this situation. However, there have been a number of research papers attempting to quantify the impact of CCTV as a crime preventative measure. For example, a report for the Swedish National Council for Crime Prevention¹² assessed the effectiveness of CCTV as a means of deterring crime for a number of studies. The results were generally mixed, finding both significant effects in areas such as car parks to non-significant effects in other settings. Overall, the effectiveness depended on factors such as coverage but overall the results suggest that CCTV reduces crime to some degree. This effect may be amplified when applied to a small setting such as a vehicle where coverage and chances of detection are significantly higher. An additional piece of research from the Campbell Collaboration found that “CCTV has a moderate but significantly desirable effect on crime”.¹³

As a result of limited data availability we have made a number of assumption and where possible have highlighted the cost and number of crimes using freedom of information requests and Home Office research to provide indicative examples of the magnitude of benefits of crime prevention.

A 2002 NACRO report¹⁴ into the effectiveness of CCTV as a crime prevention measure considered the way in which it may prevent crime in this context:

1. **Deterrence** – The potential offender becomes aware of the presence of CCTV, assesses the risks of offending in this location to outweigh the benefits and chooses either not to offend or to offend elsewhere.
2. **Self-discipline by potential offenders** – The threat of potential acts to produce a self-discipline in which individuals police their own behaviour.
3. **Presence of a capable guardian** – The ‘Routine Activity Theory’ suggests that for a crime to be committed there must be a motivated offender, a suitable target and the absence of a capable guardian. Any act that prevents the convergence of these elements will reduce the likelihood of a crime taking place. CCTV, as a capable guardian, may help to reduce crime.
4. **Detection** - CCTV cameras capture images of offences taking place. In some cases this may lead to punishment and the removal of the offenders’ ability to offend (either due to incarceration, or increased monitoring and supervision).

Although there is limited evidence of the impact of CCTV in reducing taxi and PHV crime. There have been a number of trials suggesting the effects could significantly reduce crime. A trial in Sheffield in 2006/7 (the Sheffield Taxi Camera Safety Project¹⁵) indicated a reduction in the proportion of journeys where there was an incident (ranging from fare disputes to assaults) from 15% to 1%. Another trial was undertaken in Dunfermline¹⁶, looking at the impact of fitting CCTV into 30 vehicles over a period of 10

¹¹ https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2015/03/lc347_taxi-and-private-hire-services_impact-assessment.pdf

¹² Brandon C. Welsh David P. Farrington, Closed-Circuit Television Surveillance and Crime Prevention A Systematic Review, Report prepared for The Swedish National Council for Crime Prevention, 2007

¹³ Effects of Closed Circuit Television Surveillance on Crime , Welsh, Farrington (2008)
https://www.campbellcollaboration.org/images/meeting/1048_R.pdf

¹⁴ <https://epic.org/privacy/surveillance/spotlight/0505/nacro02.pdf>

¹⁵ https://www.calderdale.gov.uk/nweb/COUNCIL.minutes_pkg.view_doc?p_Type=AR&p_ID=3412

¹⁶ <https://www.cabdirect.com/taxi-cctv-lowers-crime-rate-in-dunfermline/>

months (May 2014 – February 2015). The results suggest that there was a significant reduction in taxi related crime compared to the previous year where no CCTV was installed.¹⁷

It is the Department's view that CCTV in taxis and PHVs can play a significant role in the reduction of crime within and related to trade. This includes offences perpetrated by drivers against passengers and vice-versa, as set out in the 'problem under consideration' section above. The inclusion of the recommendation in the draft statutory guidance to undertake a thorough review of the benefits of mandating CCTV in taxis and PHV is, as is the purpose of the Act under which it is enabled, however focussed on improving passenger safety,.

However, for the purposes of this assessment the wider benefits have been considered. As previously stated, section 17 of the Crime and Disorder Act 1998 places a direct responsibility on licensing authorities to prevent crime and disorder in their area. CCTV can play a role in preventing crime, detecting and evidencing this where it persists. The draft statutory guidance therefore recommends that licensing authorities should conduct a comprehensive review of the benefits to passengers and drivers of CCTV in vehicles.

The high level of self-employment in the sector means that for this recommendation to be effective, this requirement would need to be applied to all licences vehicles and not just those in large fleets as the majority of journeys are undertaken in owner-driven vehicles.

DBS checks for some PHV operator staff

The measures proposed in the statutory draft guidance seek to provide consistently high standards in taxi and PHV licensing throughout England. The Department has also looked at measures to prevent the circumventing of these robust measures.

Drivers are the primary contact-point for passengers using taxis and PHVs, and as such are in a position of trust. However, members of staff working for a PHV operator who are responsible for receiving bookings and dispatching vehicles also have a role which offers opportunity to someone seeking to abuse that position. For example, such a person would potentially have the opportunity to send an unlicensed driver and vehicle, particularly if the motive is to facilitate a crime against a child or vulnerable adult. In essence a similar level of trust is placed in the PHV operator and it's dispatching staff as in the driver. For this reason it is the Department's view that there should be an appropriate level of criminal record check carried out for such staff.

PHV operators are also provided with information that could enable other crime. For example, PHVs are frequently used to take passengers to an airport and provide return flight details to facilitate the return journey. This means that PHV staff are aware of periods where family members are home alone or the home unoccupied. Requiring background checks on those individuals subject to sensitive information may assist licensing authorities in meeting their responsibilities under section 17 of the Crime and Disorder Act 1998 to prevent crime in their area.

Licensing authorities are not able to vet PHV staff other than drivers and the operator licence holder. However, as part of a 'fit and proper' test for an operator's licence a licensing authority is able to consider the measures that it may take to ensure the suitability of staff involved with the taking of bookings, dispatch of vehicles and/or have access to such information as detailed above. While it is the responsibility of PHV operators to make decisions on the suitability of staff they employ, the ability of 'back office' staff to circumvent safeguarding measures or facilitate other crime should be considered by a 'fit and proper' operator. Accordingly, the draft statutory guidance recommends that operators should be required to request basic DBS checks for relevant staff, and either produce a convictions policy or adopt one which the licensing authority applies to the licensing of operators for staff in roles which involve the taking of bookings, dispatch of vehicles.

The Department has sought information on the number of staff that might fall within this category but, due to the fragmented nature of licensing, differing business models and the increased use of

¹⁷ The trial reports lowering taxi related incidents from 41 in the previous year down to 2 during the period when CCTV was installed.

technology to undertake booking and dispatch functions, it has not been possible to obtain sufficient data.

Complaints against driver and operators

Licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority. 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 PHV driver is more likely to be made to the operator. A systematic recording of complaints will provide a further source of information to consider when renewing a licence for a driver or operator or identify problems during the period of the licence.

The Local Government Association recommends that all councils should have a robust system for recording complaints, including analysing trends across the whole system as well as complaints against individual drivers. Drivers 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).

Model convictions policy

The Department has not previously published a guide criminal convictions policy, leaving this to licensing authorities that are accountable to their communities. The increase in demand for private hire services and the use of technology in recent years has resulted in more cross-border operation of taxis and (particularly) PHVs; the adoption by all licensing authorities of the statutory guidance's recommendations on a convictions policy will mitigate personal safety risks, perceived or actual, that may exist as a result of cross-border hiring. The Department has therefore adopted in the draft statutory guidance key elements of the guidance published by the Institute of Licensing (IoL) on determining the suitability in taxi and PHV licensing¹⁸ to increase consistency in decision making.

All licensing authorities should review their convictions policies once the final statutory guidance has been issued, and undertake a review of all licences held against their new policies as matter of urgency. The continued licensing of drivers or operators that do not meet their new policy should be considered. Such licence holders should be judged on their own merits, licensing authorities considering afresh if, on the balance of probabilities, that person remains 'fit and proper'. This is a one-off administrative review, it is not possible to estimate a cost as the number of drivers or operators convicted of an offence cover in the final conviction policy is not known. However, given the nature of these offences (driving, violence, indecency and dishonesty) the Department considers that the proportion of drivers and operators currently licensed with a relevant conviction would be extremely small.

Summary

Parliament has enabled the issuing of statutory guidance to mitigate the risk to children and vulnerable adults from harm when using taxis and PHVs. The set of measures proposed in the draft statutory guidance are considered by the Department of Transport to be reasonable, practicable and necessary to achieve common core standards that protect this group when using these services. This will have the additional benefit of increasing the safety of all passengers and drivers.

Although the draft statutory guidance is focussed on the protection of passengers, drivers of taxis and PHVs are a particularly vulnerable group and would receive considerable (perhaps greater) increased protection from crime.

The draft statutory guidance will be subject of a public consultation giving regulators, the trade and the public the opportunity to consider the arguments presented and shape the final document. Although the Department is keen to see all the recommendations accepted by all licensing authorities, the taxi and PHV licensing legislation is enabling by nature and so ultimately it would be for each of the 293 licensing authorities in England to decide whether and how to implement and enforce these.

¹⁸ [https://www.instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_\(16_May_2018\).pdf](https://www.instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_(16_May_2018).pdf)

Analysis

This analysis looks at the effect of several key recommendations contained in the draft statutory guidance, the preferred policy option. Specifically it considers the effects of in-vehicle CCTV and DBS checks for PHV operator staff that take bookings or dispatch vehicles. Where possible we have consulted industry and licensing authorities to inform our view of the likely costs of certain aspects of the policy. Where it has not been possible to get solid evidence on specific benefits we have had to make assumptions which we believe to be prudent.

We have only analysed certain aspects of our preferred policy, issuing statutory guidance. The other components of the draft statutory guidance such as enhanced DBS and barred list checks, complaints against drivers and operators and model convictions policy have not been analysed because they would create minimal additional impact on the trade and customers or reliable data to monetise costs and benefits was not obtainable.

In addition to this, the benefits of our preferred option have not been monetised for two reasons, the first being the relative dearth of data on CCTV crime prevention. The second reason is that crime tends to be underreported and so any data we do have is likely unreliable. We have, however, provided some case studies where both the impact of CCTV on crime has been measured¹⁹ and the benefits of crime prevention have been monetised to illustrate the potential gains that may be expected following the introduction of the final statutory guidance.

As standard in impact assessments we have assumed a time period of 10 years for the analysis. We have used the GDP deflator to convert nominal values into real values and used a discount rate of 3.5 per cent as per HM Treasury guidance. All monetary values are quoted in 2014 prices unless otherwise stated. The following analysis relates to option 3, implementing statutory guidance.

Plans for Consultation

There are some aspects of the analysis that were not possible to monetise due to lack of available data. In particular, we were not able to monetise the DBS costs and fees but we plan on gathering evidence during consultation that may allow us present quantified costs for this aspect of the policy. We will also use the consultation to try and obtain more evidence on crime and also the efficacy of CCTV on crime prevention which may help us monetise some of the benefits outlined in the analysis. It is our view that our main assumption on take-up rates is inherently uncertain and it is unlikely that we will be able to reduce this uncertainty during the consultation process.

Cost Assumptions

Analysis of the size of impacts

The lack of available data and empirical evidence on take-up rates has prompted us to provide a low and a high estimate of the potential take up of CCTV in vehicles as a result of the policy. A conservative scenario of 50% (Low) and a more optimistic scenario of 75% (High). For the Low scenario we assume that there be approximately 141,000 vehicles in the scope of the policy. Under the high scenario this number will be closer 211,000²⁰. These scenarios reflect the large heterogeneity in vehicle numbers across licensing authorities as well as uncertainty in the exact take-up rates following implementation of the Statutory Guidance. For example, Transport for London licensed nearly 109,000 vehicles in 2018 whereas Staffordshire Moorlands licenced 53 vehicles. For this reason we consider it more cautious to focus the analysis on the number of vehicles rather than the number of licensing authorities who decide to implement the policy.

We believe that these low and high scenarios reflect a prudent assumption on the likely range of take-up rates with the outcome most likely falling somewhere in between. Ultimately, we think that the overall

¹⁹ There is however, some evidence from a trial study in Sheffield which found a significant impact on crime prevention of CCTV.

²⁰ We have calculated this by taking away the number of Taxi and PHV licenses in areas already mandating CCTV. Data from Department for Transport taxi and PHV statistics was used.

rate will depend on local circumstances. In particular, we expect areas that have higher crime rates as being more likely to adopt the policy. Table 1 below shows the number of vehicles expected to take up the policy based on our high and low scenario assumptions.

Table 1: Up Take rates

CCTV Uptake	Low (50%)	High (75%)
Taxis	37,169	55,753
PHVs	104,051	156,076
Total Vehicles	141,220	211,830

Source: Department for Transport Taxi and PHV statistics and authors assumptions

There are two main monetised costs that we expect from the policy and they are the cost of installing the CCTV into vehicles and the cost to the operators and drivers of becoming familiar and ensuring they comply with the various aspects of the policy (familiarisation costs), explored below. We also have several costs that we were not able to monetise due to lack of available data. These include the costs of designing and planning an approach to comply with the draft statutory guidance, costs associated with rolling-out the policy and on-going costs of complying with the policy. We expect that these non-monetised costs will fall primarily on licensing authorities and we have included descriptions and examples of the costs after consulting with licensing authorities who have implemented similar policies in the past.

Monetised-Costs

Costs to business

Familiarisation costs

Taxi drivers and PHV operators and drivers will face costs of familiarising themselves with the new licensing requirements introduced by licensing authorities, and understanding the steps they will need to take to comply. Based on conversations with industry we have assumed that, for each PHV operator, PHV driver and taxi driver, one employee will need to spend approximately 1.5 hours to familiarise themselves with the final statutory guidance. These costs will be a one-off in the first year of the scheme only, and will apply to all drivers and PHV operators. We have separated the analysis into a low and high scenario to reflect the uncertain number of vehicles mandated to install CCTV. Overall familiarisation costs are expected to be around £2.85m in the low scenario, £4.27m in the high scenario and £5.70 of familiarisation costs apply to all vehicles. The exact inputs used in the calculation are listed in table 2 below and costs are calculated by multiplying together the number of operators, the operator familiarisation time and the mean wage of a manager in the transport sector. We do the same calculation for drivers of taxis and PHVs using the average drivers wage and add them together to get the total. We obtained data on average wages from the Annual Survey of Hours and Earnings²¹ (ASHE). To maintain consistency with the wider analysis we have assumed that our Low and High scenario also applies to the number of operators. So for example, in the low scenario, we expect that around 50 per cent of operators will have to familiarise themselves with the guidance. In reality since there is large heterogeneity in vehicle numbers between operators meaning this may be unlikely assumption. The costs overall associated with this component are quite low however, and we think the assumption is proportionate overall.

Table 2: Familiarisation Costs

²¹

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2016provisionalresults#earnings-by-occupation>

Variables	Low (50%)	High (75%)	100%
Operator Numbers	7,875	11,812	15,749
PHV Numbers	104,051	156,076	208,102
Operator Familiarisation Time	1.5	1.5	1.5
Manager Wage	£19.56	£19.56	£19.56
Taxi Numbers	37169	55,753	74,
Mean Driver Wage	£12.86	£12.86	£12.86
Total Cost	£2.85m	£4.27m	£5.70m

Source: Department for Transport Bus and Taxi statistics, ASHE, consultation with licensing authorities
Notes: Totals have been discounted using Green Book discount factor

CCTV installation costs

Based on industry evidence, the cost of the camera and its installation is assumed to be between £438 and £779 with an average of £608 and is expected to be the largest cost in the analysis. We have thus carried out the impact assessment using the average of the two scenarios. Based on consulting with industry we estimate that cameras must be replaced every five years.

Taking the average cost of installing CCTV and the indicative take up rates and the need to replace the equipment once over the life of the analysis, the range of discounted costs from installing CCTV is expected to be between £152.92m and £229.38m as shown in Table 3. This averages to £15.29m and £22.94m per year over 10 years. After consulting with licensing authorities we obtained information from Gravesham Borough Council who implemented an incentive scheme to aid drivers in purchasing CCTV systems. In particular, the grant lowered the cost from £720 to £97. If a similar grant was adopted in areas choosing to implement the policy then this would significantly reduce the cost to business of the measure proposed in the draft statutory guidance. We have also received some evidence on leasing CCTV equipment rather than an outright purchase. This would substantially reduce the upfront cost for drivers and allow them to smooth the costs of equipment over a number of years. We have not monetised this at present as it is uncertain how widespread these types of arrangements will be. We will however, review this post consultation and look to monetise this if more information becomes available.

Table 3: Costs of Installing CCTV

CCTV Installation Costs	Low (50%)	High (75%)
Average Cost	£608	£608
Number of Vehicles	141,220	211,830
Replacement Rate	every 5 years	every 5 years
Total cost over 10 years	£152.92m	£229.38m
Average Cost per year	£15.29m	£22.94m

Notes: Costs are rounded.

Non-monetised costs

Costs to Business

Higher licencing costs

The results of increasing costs on licensing authorities may well be passed on to the taxi and PHV trade in the form of higher licensing fees. This cost would likely be staggered over a period of time and be

quite small however. It is also an indirect and not a direct cost to business so falls outside the scope of the EANDCB.

DBS compliance costs and fees

This draft statutory guidance would require that for each PHV operator staff member who has a role in taking bookings and dispatching vehicles, the operator must pay a £25 fee to obtain a DBS check, as well as the £13 annual update fee. Although we have evidence on the number of PHV operators, we hold no data on numbers of such staff and therefore have not monetised this cost. We do plan on gathering more information during the consultation phase which may give us a better idea on this value. Table 4 provides an estimate of the total costs over 10 years. If we assume that each operator has 2 members of staff that takes bookings and dispatches vehicles and assume a growth rate of 4.8 per cent based on past average growth in licensed vehicles per year, we get the total costs below in table 4.

Table 4 DBS total discounted costs Example

DBS compliance Costs	Costs (2014 £)
Number of Operators	15,749
Number of Staff	2
DBS check cost	£25
Annual update fee	£13
Total Cost	£1,941,810

Costs to Consumers

Increasing Fares

The largest cost associated with this policy are the installation costs of CCTV. Because these potential cost would fall in most commonly on drivers of taxis and PHV's directly, it is highly likely that to offset some of the burden of this they would seek to increase fares that consumers will need to pay.

Costs to Government

Under current tax law, a business may claim back on their capital assets. Under these laws businesses may claim capital allowances of plant and machinery. As CCTV is included in this there would be a reduction in income/corporation tax which represents a loss to the exchequer.

Costs to Licensing Authorities

The measures proposed in the draft statutory guidance are also expected to result in several types of costs to licensing authorities and we have defined these too; broadly fall under the following headings:

1. Planning and Feasibility
2. Technical Requirements
3. Roll-out.

We have not monetised these costs as we would have to make a number of assumptions that we believe are unlikely to hold in reality. In particular we would have to assume that costs are the same for all licensing authorities which would most likely not be the case. As well as this we would have to make an assumption on the number of licensing authorities that would decide to take adopt the measures in the draft statutory guidance. Making an assumption based on this would be inconsistent with our main assumption on licensing take up rates. For these reasons we have decided not to monetise these

particular costs. We have, however, outlined the costs expected from such a policy based on information gathered from a licensing authority who have implemented a similar policy in the past. The costs we were originally quoted are based on the time required for a policy including CCTV as well as other measures. We were advised that the CCTV component accounted for approximately 50 per cent of the total costs and this has been applied to the final cost quoted below.

Planning and Feasibility

There would be a cost to licensing authorities in assessing the rationale for implementing CCTV and, if applicable, designing the new scheme. In particular, licensing authorities may have to update their licensing policy to reflect the new guidance. There would be costs associated with consultation and engagement with key stakeholders which would need to be carried out in order to shape the policy and address any issues that are present. These stakeholders may include taxi/PHV trade bodies, operators and drivers, residents and local police force. Costs associated with getting agreement/approval for the plan from a committee are also expected to apply.

Technical Requirements

In implementing the proposed CCTV guidance, licensing authorities would also have to define and develop a clear policy relating to what the CCTV can be used for and when it must be used. This would require background research and involve consultations in order to form a coherent policy. Our information from licensing authorities indicates that this would be a relatively large undertaking and require approximately 3 months of work. In addition to this initial undertaking, authorities would also need to develop a download policy which complies with data protection and privacy laws. This process was suggested to take around 3 weeks.

Roll-Out

Licensing authorities that elect to mandate CCTV following the assessment process would need to develop a detailed policy on the use of CCTV, they would then need to roll-out the policy. This would involve creating a roll-out schedule, disseminating information relating the policy by way of informing the public and drivers and also training for enforcement officers and the cost of ongoing enforcement activity. We expect that the main cost associated with this will be the salary of the officer required to undertake these activities.

The majority of the costs of this particular aspect of the policy consists of the licensing officer's time. Based on the information we received under the above headings, the cost was approximately £18000.

On-Going Costs

There will also be some on-going costs that would fall on licensing authorities as a result of the measures proposed in the draft statutory guidance that we have not been able to monetise due to lack of evidence. For example, there will need to be a certain level of back office administration costs relating to the processing and handling of the camera footage which needs to be obtained when required from the system fitted in the vehicles. This could take the form of an authorised staff/ data controller who is responsible for processing the data and complying with all the relevant protection legislation. Alternatively, the licensing authority could hire a third party to process and manage the data which will also have an associated cost.

Administrative cost of complying with judicial requests for CCTV will also apply. After consulting with Southampton licensing authority we have found evidence that from a fleet of 900 vehicles there were some 239 download requests. As all of these costs fall on licensing authorities they are not a direct cost to business and are therefore not included in the EANDCB. They may, however, be passed on to business through higher licensing fees.

Benefits Assumptions

Table 5: Value of Crimes 2014 £

Crime	Cost of crime
Homicide	£1,909,943
Sexual offences	£41,142
Theft - not vehicle	£829
Robbery	£9,516
Theft from vehicle	£1,121
Criminal damage	£1,132
Common assault	£1,882
Fare dodging	£13

Source: Home Office²²

Although we have not been able to monetise the benefits in this analysis, we have highlighted the values of certain crimes to give a sense of the monetary benefits associated with crime prevention. Table 5 contains the monetary values of crimes according the Home Office which takes into account a variety of factors such as physical and emotional damage and the value of lost productivity. If we take the evidence of crime mentioned before in Rotherham (1400 cases of abuse) we can use the value of a sexual offence in Table 5 to estimate the total costs to the economy from these crimes is approximately £55.59m. Although likely not a representative sample of the UK as a whole, this example highlights the potential cost savings from preventing such crimes.

Benefits

The main benefit of having CCTV installed in taxis and PHVs as well as having enhanced DBS and barred lists checks is that crime is likely to be prevented. This result is expected for a number of reasons mentioned above including, deterrence, self-discipline by potential offenders, presence of a capable guardian and detection. The presence of CCTV acts as a disincentive to potential criminals as it increases the likelihood that they will be caught. In addition to this, the enhanced DBS and barred lists checks can prevent any would be criminals from entering into the market in the first place.

There are a number of factors which make monetising the benefits of crime prevention very difficult and are as follows:

- Inconsistent recording of crimes committed associated with taxis or PHVs, and their drivers.
- Any data collected on crimes associated with taxis and PHVs will almost certainly be underreported.
- There is no robust, reliable evidence as to size of crime reduction in response to CCTV installation or DBS checks. Without this, it is difficult to estimate the Do Something cost of crime associated with taxis and PHVS.

There is, however, some evidence for success in the use of CCTV in licensed vehicles. A report from a Sheffield Taxi Camera Safety Project showed a dramatic fall in crimes after CCTV was installed in a sample group of vehicles (from 15% to 1% of all fares monitored). Although the study suffers from methodological limitations²³ the results indicate that there is scope for a significant reduction in the rate of crime following the introduction of CCTV requirements.

For crimes committed by drivers, the efficacy of the CCTV recommendation will depend on the level of take-up by licensing authorities across the country. If uptake is not high, there will be an incentive for drivers with ill intentions to seek to obtain licenses in authorities which do not mandate CCTV. This

²² The economic and social costs of crime against individuals and households 2003/2004

²³ The study's results are limited by the lack of a control group to measure the impacts of CCTV on crime prevention.

should not however alter the effectiveness of the recommendation in reducing crimes committed against drivers.

Northumbria Case Study

As mentioned previously, we have not been able to monetise benefits because of a lack of data on rate of deterrence of crime, and no data on actual crimes. Table 6 and Figure 1 shows a small case study on the number and the value of crimes in Northumbria.

Using the data below obtained from Northumbria Police and taking the taxi and PHV statistics²⁴ from the Department we carry out an impact assessment only focusing on Northumbria. We also carry out a breakeven analysis to highlight the amount of crimes that would need to be avoided in order for the policy to break even. We believe this is a useful exercise and can be indicative of the size of the impacts that could be expected as a result of this policy.

Table 6 Northumbria Cost of Crime (2014 £)

Type of crime	Number of crimes	Costs of crime
Sexual offences	33	£1,357,700
Thefts	218	£180,600
Robbery	12	£114,200
Theft from motor vehicle	93	£104,300
Damage (motor vehicle)	140	£158,400
Assaults	301	£566,400
Make off w/o payment	1183	£15,500
Total Cost of Crime	1980	£2,497,100

Source: FOI Northumbria Police and Home Office

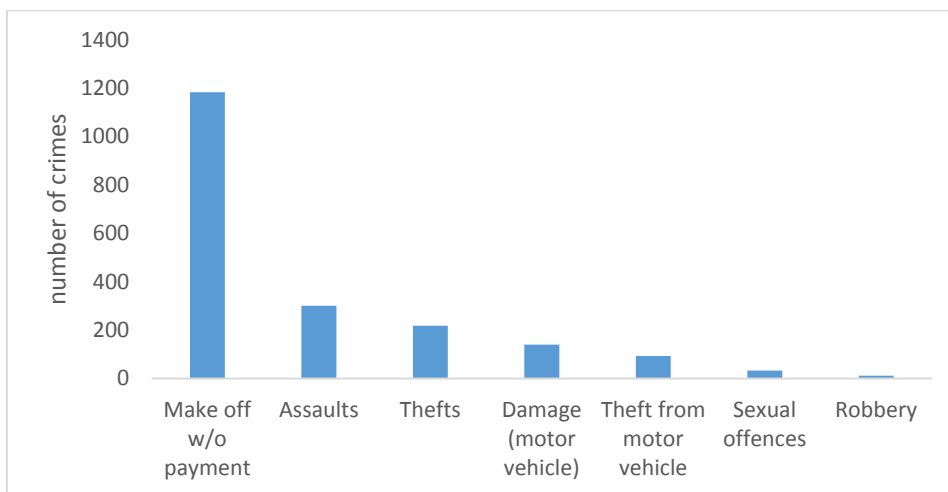


Figure 1: Number and Type of Crimes in Northumbria

Source: Northumbria Police FOI

Using the values in table 6 above we calculate that the total cost of relevant crime in Northumbria in 2014 was £2.49m. From our impact assessment focusing on Northumbria we find that our best estimate of the Net Present Value as a result of the policy is -£7.82m. Over the 10 years of the policy this

²⁴ The number of taxis and PHVs in 2018

translates to an average of -£0.877m per year. This implies that In order for the CCTV policy to break even approximately 35 per cent of crimes would need to be avoided every year for the costs of this policy to be offset by the benefits of crime prevention. Although the literature suggests the benefits of crime prevention due to CCTV is mixed, there is evidence to suggest that at least some of this crime is likely to be prevented after the installation of CCTV. If we couple this with the numerous wider benefits such as enhanced passenger safety and enhanced user confidence that such a policy creates it is likely that the benefits will outweigh the costs of the policy.

Indirect Benefits

Lower Insurance Costs

Although very difficult to ascertain, one of the benefits which may accrue to drivers from reduced crime would be lower insurance costs for drivers. As the rate of crime falls, insurance claims may also be likely to fall and therefore insurance premiums would fall. Depending on the pass through effect of lower operating costs to drivers this may also feed through to lower fares for passengers.

Enhanced User Confidence

An increase in CCTV leading to a reduction in crime could lead to enhanced user confidence and passenger safety which may facilitate higher passenger demand. A survey by Southampton City Council found that CCTV makes the public feel safer and of the 538 respondents, 96% supported the mandating of CCTV. This increase in patronage will lead to higher profits for drivers. If some of these passengers may not have travelled before than this may have a positive impact on the economy in terms of productivity. This benefit may be particularly effective at increasing passenger demand in more vulnerable groups such as the elderly or the disabled.

Risks and assumptions

Risks

Due to the prevalence of underreporting of crimes this analysis may actually underestimate the benefits that could accrue if the measures proposed in the draft statutory guidance were mandated. This presents a source of upside risk in this impact assessment.

In order to carry out the analysis it was necessary to provide an assumption on the take-up rates of the policy. Due to the inherent uncertainty on the exact percentage of vehicles mandated to undertake the recommendations in the draft statutory guidance we felt it prudent to present two scenarios which we think reflects feasible ranges of up-take. The risk is that there is universal take up and this analysis therefore underestimates the costs as a result of the policy. Of course, if there is universal take-up there will also be an increase in the benefits that will be generated in the form of crime prevention and enhanced user confidence.

Another risk associated with this policy is that those licensing authorities who decide not to implement the measures proposed in the draft statutory guidance may attract drivers who are more likely to commit crimes will migrate to another authority, for example where CCTV is not mandatory. We do think that a majority of the fleet will be subject to the full range of recommendations in the draft statutory guidance and believe that this would still provide significant benefits to make the policy value for money. An increased evidence base of the efficacy of CCTV in reducing crime in licensed vehicles may influence the decision of the authorities that do not initially adopt this option.

We have also made an assumption that the average cost of installing CCTV's for the purpose of the analysis is £608, giving the varying costs we received from industry. There is the risk that a CCTV standard is introduced implying all LA's implementing the policy will have to use the same type of equipment. If the equipment costs more than our estimate here this would increase the overall costs of the policy. We have however highlighted that drivers will be able to claim tax relief on the equipment which may ease the overall burden on them.

Assumptions

One of the major sources of uncertainty in this impact assessment is the take up rates of CCTV installation. As this is so uncertain we have decided to use two different take up rates. On the one hand, we could have a situation where there is a significant uptake in licensing authorities that have a comparatively lower fleet of cars resulting in a relatively low take up rate overall. On the other hand if licensing authorities with a relatively high proportion of the total fleet decide to take up the guidance we could have a much higher rate. We therefore present two take up rates a conservative 50% (low) take up rate and a more optimistic 75% (high) take up rate.

In order to not over complicate the analysis, we have made an assumption that the number of vehicles that need to replace their CCTV cameras after five years is the same as in the implementation year. In other words we have assumed that we are at the steady state number of vehicles and operators. This implies that no additional vehicles would need to install CCTV after the first year. In reality we might expect the level of vehicles to increase over time and be subject to CCTV but we think overall this is proportionate.

In the interest of reducing the complexity of the analysis we have assumed that all PHV and taxi licence holders are sole traders. This treats them each as a business and in effect is a more cautious assumption. This assumption also allows us to calculate the direct costs to business that we expect from the policy in the form of the EANDCB.

We have also made an assumption that the proportion of operators who familiarisation costs will apply to is the same as the assumption on the number of vehicles in our low and high scenarios. In other words, in our low scenario, approximately 50 per cent of operators will need to familiarise themselves with all the measures proposed in the draft guidance. These costs, however are comparatively small and therefore have minimal impact on the total costs.

Social impacts

Equalities Impact

The Department has undertaken an equality screening assessment. These recommendations, if adopted as proposed, will place a burden on local licensing authorities, drivers and/or owners of taxis and PHVs and PHV operators regardless of any protected characteristics these individuals might have. While we anticipate that there will be variations in the people affected by these recommendations this is a function of the nature of those within the taxi and PHV sector (drivers, vehicles owners, PHV operators and their staff) there is no evidence to suggest that it will affect any one equality group within this population disproportionately at a national.

It is expected that the recommendations, if adopted by local licensing authorities, would be applied equitably but this is the responsibility of local authorities and could be subject to challenge. We expect that both drivers and passengers will benefit from a safer environment in which to travel. We also expect that the policy will increase user confidence and may facilitate higher passenger demand from more vulnerable groups such as the elderly or those with disabilities.

Direct Costs and Benefits to Business

For the analysis we have assumed that all PHV and taxi license holders are self-employed and are therefore treated as a business. This means that taxi and PHV drivers will likely bear the full direct cost of installing CCTV. From consultations with industry we have calculated an average cost of £608 to install the CCTV equipment. We have also estimated that the average life of a camera is 5 years and therefore needs to be replaced once over the time period of our analysis. Familiarisation costs will also apply to all PHV and taxi drivers and operators as they will need to learn how to comply with the final statutory guidance and how best to use the equipment. These costs will only apply in the year of implementation and will range from £2.85m to £4.27m. In total we have estimated that the equivalent

annual net direct cost to business (EANDCB) is -£18.10m in the low scenario, -£27.15m in the high scenario with a central estimate of -£22.62m.

Small and Micro Business Assessment (SaMBA)

Due to the nature of the data, it has not been possible to obtain information on the relative size of PHV operators in terms of the number of employees. Although there are likely a significant number of PHV operators who are small or micro in size, it is impossible to predict which operators would be required to implement the policies proposed and we have therefore been unable to carry out the SaMBA assessment. If we assume that all taxi and PHV drivers are sole traders and therefore are counted as businesses, then the costs of purchasing and installing the equipment will fall on them as well as the familiarisation costs. The costs overall from installing the CCTV and replacing it comes out to around £1200 over the 10 years for each driver. The advantage that drivers will have is that the CCTV costs will be tax deductible. In addition to this, drivers may decide to offset some of these costs by increasing fares. We have also received some evidence of leasing options available in some areas allowing drivers to lease the CCTV equipment rather than purchase it outright. If widely available this option would substantially reduce the upfront costs to drivers and smooth this cost over a number of years.

Ultimately however, the total impact on business will depend on the take up rate of the final statutory guidance. It is important to note that under some circumstances it may be prudent to provide an exemption to small and micro business due to the disproportionate cost impact that such policies may have. In this case, however, if these businesses were exempt then the policy would fail to meet its objective.

Summary and Preferred Option

This impact assessment proposes to implement statutory guidance in the taxi and PHV markets. In particular, the draft statutory guidance recommends installing CCTV in all taxis and PHVs in order to protect children and vulnerable adults from harm. This recommendation would not only protect passengers from harm but it would also protect drivers from potentially violent passengers as CCTV is believed to be a major deterrent of crime.

The most significant cost associated with the draft statutory guidance is the cost of installing and maintaining the CCTV. Our best estimate suggests that this cost would fall between £152.92m and £229.38m across our two scenarios. We also expect that there will be some familiarisation costs associated with learning and complying with the particulars of the policy. Our estimates for this range between £2.85m and £4.27m and would apply only in the implementation year of the policy.

There would also be costs that fall on licensing authorities and these mainly relate to assessing the rationale for the policy and, if applicable, developing detailed download and privacy policies that comply with wider regulation. There would also be some costs associated with the roll-out of the policy involving the wider dissemination of information to the public and drivers. We have not been able to accurately monetise this cost due to the heterogeneity across licensing authorities. We have, however, received and estimate of the costs from a licensing authority who implemented a similar policy which suggests that the cost would be somewhere in the region of £18000.

Some of the expected benefits as a result of installing CCTV include crime prevention, increased passenger safety and enhanced public confidence. Although we have not been able to monetise the benefits of the draft statutory guidance, we do believe that the policies will be effective and that the benefits would exceed the costs. In particular, we highlight a case study in Northumbria whereby the policies only needs to generate a 35 per cent reduction in crime for it to breakeven. We believe given the significant under reporting of crime, this is a very achievable result.

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Taxi and private hire vehicle licensing: protecting users

1. Introduction

Thank you for taking the time to read the consultation document and to respond to the questions. Your answers will help us to firm up statutory guidance to taxi and private hire vehicle (PHV) licensing authorities on how their licensing powers can be exercised in order to safeguard children and vulnerable adults.

The easiest way to respond to this consultation is online:

<https://www.smartsurvey.co.uk/s/taxis-licence/>

The online version allows you to save your response and continue it later and to save or print off a copy for your records.

Confidentiality and data protection

The Department for Transport (DfT) is carrying out this consultation to gather views and evidence on measures for inclusion within the statutory guidance issued to taxi and PHV licensing authorities. This consultation and the processing of personal data that it entails is necessary for the exercise of our functions as a government department. If your answers contain any information that allows you to be identified, DfT will, under data protection law, be the controller for this information.

As part of this consultation we're asking for your name and email address. This is in case we need to ask you follow-up questions about any of your responses. You do not have to give us this personal information. If you do provide it, we will use it only for the purpose of asking follow-up questions.

We may contract a third party to analyse the responses we receive to the consultation. If you provide your contact details, we may share this information with a contractor in case they need to contact you regarding your consultation response.

DfT's privacy policy has more information about your rights in relation to your personal data, how to complain and how to contact the Data Protection Officer. You can view it at <https://www.gov.uk/government/organisations/department-for-transport/about/personal-information-charter>.

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Your information will be kept securely and destroyed within 12 months after the consultation has been completed. Any information provided through the online questionnaire will be moved from their system to our internal systems within 2 months of the consultation end date.

Find out more about the [Department for Transport's data protection and privacy policy](#).

2. Personal details

1. Your name and email address. We will only use this if we need to contact you to ask about any of your responses.

Your name

Your email

3. About you

2. Are you responding: *

- ☐ as an individual?
- ☐ as a taxi driver?
- ☐ as a PHV driver?
- ☐ as a taxi intermediary?
- ☐ as a PHV operator?
- ☐ a licensing authority
- ☐ the police
- ☐ other (specify)?

4. Administration of the licensing framework

3. The draft statutory guidance recommends that all those involved in the determination of licensing matters should receive training covering licensing procedures, natural justice, child sexual abuse and exploitation, disability and equality in addition to any other issues deemed locally appropriate (paragraph 2.18). Do you agree with the recommendation?

- ☒ Yes
- ☐ No
- ☐ No opinion

Comment below if you want to explain your answer.

Training on these points is essential for decision makes understand the relevance, importance and implications of decisions being made. This should be compulsory before participation in determination of licences.

4. The draft statutory guidance recommends a council structure for dealing with licensing matters (paragraphs 2.20-2.24). Do you agree with this proposed structure?

- ☒ Yes
- ☐ No
- ☐ No opinion

Comment below if you want to explain your answer.

This is a model already adopted by this Authority, it allows for serious matters to be dealt with quickly, and for a panel of members to competently judge each case on its on merit against the relevant policy. We would suggest that a recommended panel size be provided, with consideration of three members being optimum.

5. Implementing changes to the licensing policy and requirements

5. The draft statutory guidance recommends that all issued licences should be reviewed following changes in licensing policy (paragraph 2.29). Do you agree with this recommendation?

- ☒ Yes
- ☐ No
- ☐ No opinion

Comment below if you want to explain your answer.

With driver licences lasting up to three years, and operators up to five. It is essential that the guidance requires changes are brought into effect on existing licences during the life of the licence and not just at renewal or grant.

6. The Disclosure and Barring Service

6. The draft statutory guidance recommends that all drivers should be subject to an enhanced Disclosure and Barring Service (DBS) with barred lists check for individuals applying for or renewing taxi and PHV driver licences (paragraph 2.32). Do you agree with this recommendation?

- ☒ Yes
- ☐ No
- ☐ No opinion

Comment below if you want to explain your answer.

This is already undertaken by this Authority. Drivers hold such a position of trust and could by the nature of the job take advantage of their position very easily, it should be mandatory to be obtain as much information that is available when making a decision as to the applicants suitability. This process is not infallible as the information disclosed on an Enhanced DBS with all the relevant checks, is still subject to discretionary disclosure by the relevant police authority, and we have experienced situations when what us as a licensing authority would consider a relevant conviction has not been disclosed by the police vetting decision making process.

7. The draft statutory guidance recommends that all licence holders should be required to subscribe to the DBS update service (paragraph 2.38). Do you agree with this recommendation?

- ☒ Yes
- ☐ No
- ☐ No opinion

Comment below if you want to explain your answer.

This does give the Authority the ability to become aware quicker of relevant matters, however it is reliant on the DBS holder paying the annual fee to the DBS, and where that does not happen the driver drops off the scheme. Guidance should be given to the approach taken when this happens, such as immediate suspension.

8. The draft statutory guidance recommends that appropriate DBS checks are conducted every 6 months (paragraph 2.39). Do you agree with this recommendation?

- ☒ Yes
- ☐ No
- ☐ No opinion

Comment below if you want to explain your answer.

If this will highlight any undisclosed additional information about a licence holder then this is welcomed. It is not unusual despite conditions on licences requiring disclosure to the licensing authority, convictions or other relevant matters are only discovered at renewal, and with three year licences this can be a considerable time before the matter is considered.

7. Licensee self-reporting

9. The draft statutory guidance recommends that drivers and operators should be required to notify the issuing authority within 48 hours upon arrest and release, charge or conviction of any motoring offence or any offence involving dishonesty, indecency or violence (paragraph 2.41). Do you agree with this recommendation?

- ☒ Yes
- ☐ No
- ☐ No opinion

Comment below if you want to explain your answer.

The guidance should go further to include any offence, not just those examples provided.

8. Referrals to DBS and the police

10. The draft statutory guidance recommends that licensing authorities should make referrals to the DBS when it considers that an applicant or licence holder is thought to present a potential risk of harm to the public (paragraph 2.43). Do you agree with this recommendation?

- ☒ Yes
- ☐ No
- ☐ No opinion

Comment below if you want to explain your answer.

The definition of poses a risk should be well defined as often action is taken against drivers on non-criminal matters, or on matters that have not met the criminal level for prosecution but there is sufficient concern on a civil test for action against the licence.

9. Overseas convictions

11. The draft statutory guidance recommends that a check of overseas criminality information or ‘Certificate of Good Character’ should be required, when an individual has spent a period of more than 3 continuous months outside the UK when over the age of 18 (paragraph 2.47). Do you agree with this recommendation?

- ☒ Yes
- ☐ No
- ☐ No opinion

Comment below if you want to explain your answer.

This is largely reliant on the applicant disclosing their residency outside the UK in the application form. Guidance on when information before the age of 18 is or is not relevant so consistency is applied nationally.

10. Other information

12. The draft statutory guidance recommends that licensing authorities should require applicants / licensees to disclose if they have been licensed elsewhere, or have had an application for a licence refused, or have had a licence revoked or suspended by any other licencing authority (paragraph 2.57). Do you agree with this recommendation?

- ☒ Yes
- ☐ No
- ☐ No opinion

Comment below if you want to explain your answer.

The guidance should be extended to direct how authorities should handle that information, such as the requirement for references. The provision of a national register would assist to identify those that hold licences elsewhere that have not disclosed.

13. The draft statutory guidance recommends that licensing authorities should use tools such as the national register of taxi and PHV driver licence refusals and revocations (NR3) to improve information sharing (paragraph 2.58). Do you agree with this recommendation?

- ☒ Yes
- ☐ No
- ☐ No opinion

Comment below if you want to explain your answer.

A tool like this is only as good as the information that it contains, the guidance should be stronger around Local Authorities having to use the system.

14. The draft statutory guidance recommends that the authority considering the application / renewal should consult and consider other licensing decisions in its assessment, when an applicant / licensee discloses they: have had an application refused, or had a licence revoked or suspended elsewhere (paragraph 2.60). Do you agree with this recommendation?

- ☒ Yes
- ☐ No
- ☐ No opinion

Comment below if you want to explain your answer.

This would require a national standard for fitness to be effective, as currently local policies differ considerably.

11. Multi-agency safeguarding hub (MASH)

15. The draft statutory guidance recommends that multi-agency safeguarding hubs (or similar) should be established by licensing authorities to improve the sharing of relevant information (paragraph 2.64). Do you agree with this recommendation?

☒ Yes

☐ No

☐ No opinion

Comment below if you want to explain your answer.

Information sharing is key to dealing with safeguarding and other issues. There is a disconnect generally between County Councils and Local Councils around information sharing for taxi driver related matters, the formation of hubs like this would have a positive impact on that. A balance needs to be sought between creating something too big to solve this issue, but making it of significant importance so that information is shared. Consideration should be given to the guidance requiring positive information sharing around safeguarding and other criminal matters.

12. Complaints against drivers and operators

16. The draft statutory guidance recommends that licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that must be displayed in licensed vehicles (paragraph 2.66). Do you agree with this recommendation?

- ☒ Yes
- ☐ No
- ☐ No opinion

Comment below if you want to explain your answer.

Knowing how and where to complain is essential to regulate the licensed traded effectively. Consideration needs to be given on what information is to be displayed internally on vehicles as vehicle configurations differ greatly and the space available to display this information safely and clearly varies greatly. Requiring external door signage, displaying licence the number clearly would be well considered too, as most passengers approach the vehicle from the kerb and not at a front or rear elevation where the licence plate is usually shown.

13. Safeguarding awareness

17. The draft statutory guidance recommends that all licensing authorities should require drivers to undertake safeguarding training as a condition of licensing (paragraph 2.72). Do you agree with this recommendation?

- ☒ Yes
- ☐ No
- ☐ No opinion

Comment below if you want to explain your answer.

Absolutely, we have provided mandatory CSE training to all taxi drivers, and require this as part of their suitability criteria. As a direct link to the training provided we can evidence at least 2 reports of concerns that have led to a police investigation, that is likely not to have come forward without the safeguarding training.

14. Language proficiency

18. The draft statutory guidance recommends that all licensing authorities should consider whether an applicant for a licence is able to communicate in English orally and in writing with customers (paragraph 2.79). Do you agree with this recommendation?

- ☒ Yes
- ☐ No
- ☐ No opinion

Comment below if you want to explain your answer.

The guidance does not reference the safety aspect of being able to converse with passengers, in situations like the breakdown on a motorway, where the driver needs to be able to effectively communicate safety instructions to their passengers.

An indication of what that level of proficiency should be, as opposed to a subjective assessment by a licensing authority officer. This will also support a consistent national approach.

15. Enforcement

19. The draft statutory guidance recommends that licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area (paragraph 2.81). Do you agree with this recommendation?

☒ Yes

☐ No

☐ No opinion

Comment below if you want to explain your answer.

However, there is no funding available for enforcement for vehicles from outside your licensed area. The fees generated from our own licensed trade cannot be used to pay for this enforcement. The home licensing authority will receive the fee that can be used for enforcement against that vehicle/driver. Where vehicles are exclusively working out of area this will put an additional resource burden on authority that does not issue the licence. Changes to guidance and statute will be required to allow fees to be used for any enforcement, and guidance should be issued about the licensing authority financially contributing to areas where their vehicles are predominantly working.

16. Criminal record checks for PHV operators

20. The draft statutory guidance recommends that PHV operators (applicants or licensees) should be subject to a basic DBS check (paragraph 2.91). Do you agree with this recommendation?

- ☒ Yes
- ☐ No
- ☐ No opinion

Comment below if you want to explain your answer.

Operators are in a position of trust and a Basic DBS would assist in making a judgement of their suitability.

17. PHV operators - ancillary staff

21. The draft statutory guidance recommends that PHV operators should, as a condition of licensing, be required to keep a register of all staff that will take bookings or dispatch vehicles (paragraph 2.97). Do you agree with this recommendation?

- ☒ Yes
☐ No
☐ No opinion

Comment below if you want to explain your answer.

Yes, this is easily achieved for operators. Consideration should be given to what staff needs to be listed where bookings are automated through an app or similar.

22. The draft statutory guidance recommends that PHV operators should be required to evidence that they have had sight of a basic DBS check on all individuals listed on the above register (paragraph 2.97). Do you agree with this recommendation?

- ☒ Yes
☐ No
☐ No opinion

Comment below if you want to explain your answer.

Yes, The basic DBS check is easily obtained and will ensure the suitability of those accessing the information, and with control over the licensed vehicles.

23. The draft statutory guidance recommends that PHV operators should be required to provide to the licensing authority their policy on employing ex-offenders that will take bookings or dispatch vehicles as a condition of licensing (2.98). Do you agree with this recommendation?

- ☒ Yes
☐ No
☐ No opinion

Comment below if you want to explain your answer.

It would be important to ensure that each operator has a policy on how they process the information gained by seeing a Basic DBS, this policy could be submitted on application and updated if amended during the duration of the licence.

18. PHV operators - use of passenger carrying vehicles (PCV) licensed drivers

24. The draft statutory guidance that a PHV operator may not use a driver who does not hold a PHV licence (but may hold a PCV licence) to use a public service vehicle to carry out a PHV booking. This would be a condition of the operator's licence (paragraph 2.100). Do you agree with this recommendation?

- ☒ Yes
- ☐ No
- ☐ No opinion

Comment below if you want to explain your answer.

This is a loophole that is used to increase the fleet and number of drivers, and this change in guidance would be welcomed.

19. PHV operators – record keeping requirements

25. The draft statutory guidance recommends that PHV operators should, as a condition of licensing, be required to record the information detailed in paragraph 2.101. Do you agree with this recommendation?

- ☒ Yes
- ☐ No
- ☐ No opinion

Comment below if you want to explain your answer.

Consideration to be given to include the contact number for a passenger or person making the booking as a means to assist complaint investigation.

20. In-vehicle visual and audio recording - CCTV

26. The draft statutory guidance recommends that licensing authorities should carefully consider potential public safety benefits and potential privacy issues when considering mandating that taxis and PHVs have CCTV installed (paragraphs 2.104 to 2.109). Do you agree with this recommendation?

- ☐ Yes
- ☐ No
- ☐ No opinion

Comment below if you want to explain your answer.

The benefits of CCTV can be invaluable when incidents occur, however the cost of installing these systems is another financial burden for the proprietor, especially for the industry locally that is being heavily affected by cross boarder hiring.

Placing the burden on the licensing authority to become the Data Controller is heavy, particularly when we would have very little control over the device. Licensing Authorities may not have the technical abilities currently to understand and regulate this effectively.

Guidance on approved/accredited systems would be required.

Allowing the units to be turned off when the vehicle is being used for private use will just open up the system to abuse, once licensed as a PHV etc. it's always a PHV, even if its undertaking a private journey. If the data is held securely as per the other parts of this guidance the any data recorded would only be accessible with a valid DPA request.

27. The draft statutory guidance recommends that CCTV recordings in taxis and PHVs should be encrypted and accessible only by licensing authority officials (if acting a data controller), the police or when subject to a data subject access request (paragraph 2.114). Do you agree with this recommendation?

- ☒ Yes
- ☐ No
- ☐ No opinion

Comment below if you want to explain your answer.

This would prevent the data being used inappropriately, however would place an additional burden on Licensing Authorities with DPA requests, especially around civil damage claims or road traffic incidents.

21. Stretched limousines

28. The draft statutory guidance recommends that licensing authorities should consider licensing vehicles with an Individual Vehicle Approval certificate, even if the passenger capacity is unclear, but under the strict condition that the vehicle will not be used to carry more than 8 passengers (paragraph 2.118). Do you agree with this recommendation?

- ☒ Yes
- ☐ No
- ☐ No opinion

Comment below if you want to explain your answer.

These vehicles are used to carry some of the more vulnerable passengers, School Children on Proms or persons that are under an influence of alcohol. It's our experience that these vehicles can be poorly maintained if not licensed as a PHV, and by licensing it provided another level of regulation and scrutiny. Issues can arise for the testing of these vehicles as some MOT garages do not have the ability to fit on ramps etc.

22. Previous convictions guidance

29. The draft statutory guidance recommends that the Department for Transport should issue guidance on the assessment of previous convictions (paragraph 2.50). Do you agree with this recommendation?

- ☒ Yes
☐ No
☐ No opinion

Comment below if you want to explain your answer.

Annex A should be the Institute of Licensing's guidance on suitability in its entirety. However, we welcome a national recommended standard.

30. Annex A of the draft statutory guidance provides a list of offences to aid consistency in the 'fit and proper' assessment for licences. Do you think that the list provides enough detail to do this?

- ☐ Yes
☒ No
☐ No opinion

Comment below if you want to explain your answer.

Without the narrative that is contained in the Institute of Licensing's document, it needs further clarification.

31. Are there any offences that should be added to the list in Annex A?

- ☒ Yes
☐ No
☐ No opinion

23. Other offences

32. If you answered yes, please list the offence(s) and the period you consider appropriate to prevent the granting of a licence under most circumstances.

Offences under the licensing legislation

Particular consideration to offences that occurred while working as a taxi driver.

24. Impact assessment

33. Do you have data relating to alleged offences committed in licensed vehicles either against or by passengers? If you have and are prepared to share this with us please add to your response.

No

34. If have any comments or other data that may be relevant to the Impact Assessment please provide this.

No

Ways to respond

Email this completed document to:

SG-Consultation2019@dft.gov.uk

Or post it to:

Department for Transport
Buses and Taxis Division (Statutory Guidance 2018 Consultation)
Great Minster House
33 Horseferry Road
London
SW1P 4DR

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