

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
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