

Name of meeting: Licensing and Safety Committee

Date: 13 March 2019

Title of report: Taxi & Private Hire Licensing – New Statutory Guidance from the Department for Transport

Purpose of report:

The purpose of this report is to inform Members of a consultation currently being undertaken by the Department of Transport on new statutory guidance in relation to the licensing of the private hire and hackney carriage trades.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	No
The Decision - Is it eligible for call in by Scrutiny?	Not applicable
Date signed off by <u>Strategic Director</u> & name	Karl Battersby
Is it also signed off by the Service Director for Finance IT and Transactional Services?	Strategic Director – Economy and Infrastructure
Is it also signed off by the Service Director for Legal Governance and Commissioning Support?	
Cabinet member portfolio	Councillor Naheed Mather

Electoral wards affected: All

Ward councillors consulted: All

Public or private: Public

1. Summary

- 1.1 To inform committee members of the start of a consultation in England and Wales on a set of new Statutory Guidance for licensing authorities.
- 1.2 To highlight to committee members the areas where the new guidance would have significant impact on the council's policies and the regional West Yorkshire and York policy review.
- 1.3 To seek member views on the response to the consultation and implications for current and planned policy reviews.

2. Information required to take a decision

Background

- 2.1 In 2017, the Department for Transport established a Task and Finish Group, with a remit to –
 - consider evidence relating to the adequacy of current taxi and PHV licensing authority powers, as set out in legislation and guidance, making recommendations for actions to address any priority issues identified.
 - identify the current priority concerns regarding the regulation of the sector, based on evidence of impact and scale across England;
 - consider, in particular, the adequacy of measures in the licensing system to address those issues;
 - consider whether it would advise the Government to accept the recommendations made in the Law Commission's May 2014 report on taxi and PHV legislative reform relevant to the issues, and;
 - make specific and prioritised recommendations, legislative and non-legislative, for action to address identified and evidenced issues.
- 2.2 The Task and Finish Group reported their recommendations in October 2018. The Department for Transport has now published Taxi and Private Hire Vehicle Licensing: Protecting Users, Statutory Guidance for Licensing Authorities, attached at **Appendix I**.
- 2.3 The DfT has published plans to consult on the Statutory Guidance until 22 April.

Main Issue

- 2.4 Statutory Guidance does not alter the key legislation, nor does it make any new legislation. However, it is the strongest possible guidance central government can issue in guiding licensing authorities to review and update their policies.
- 2.5 The guidance advises every local authority to publish consideration of each of the recommendations contained in the guidance. It also advises licensing authorities that any failure to follow very closely the guidance without sufficient justification could be detrimental to the licensing authority when challenged.

Areas of Statutory Guidance

2.6 The guidance identifies 30 specific areas of guidance, summarised in the table below.

1.	Single taxi and private hire licensing policy
2.	Fit and proper person test
3.	Administration of the licensing framework and decision making, including officer and member roles
4.	Whistleblowing
5.	Implementing changes to licensing policy and requirements
6.	Disclosure and Barring Service (DBS)
7.	DBS Update Service
8.	Licensee self-reporting
9.	Referrals to DBS and police
10.	Overseas convictions
11.	Convictions policy
12.	Common Law Police Disclosure
13.	Other Information
14.	Multi agency safeguarding hub
15.	Complaints against licence holders
16.	Duration of licences
17.	Safeguarding awareness
18.	Other forms of exploitation. 'County Lines'
19.	Language proficiency
20.	Enforcement
21.	Suspension and revocation of drivers licences
22.	Criminal checks for PHV operators
23.	PHV Operators – ancillary staff
24.	PHV Operators - use of passenger carrying vehicles (PCV) licensed drivers
25.	PHV Operators – record keeping
26.	In vehicle visual and audio recording – CCTV
27.	Stretched limousines
28.	Consultation at the local level
29.	Convictions guidance
30	Staying safe – guidance for passengers

- 2.7 Some of the recommendations in the Statutory Guidance recommend a change or amendment to the policies and/or arrangements which are in place in Kirklees, and in many other licensing authorities.
- 2.8 Many of the recommendations of the Task and Finish Group, such as where journeys should start or finish, or on powers to cap the number of drivers or vehicles, are not included in the guidance.
- 2.9 Some of the recommendations may affect how the council reviews existing policies and works with neighbouring authorities to align/harmonise some key policies.

3 Implications for the Council

3.1 Working with People

The proposed statutory guidance will, in some areas, support Kirklees in ensuring there is a raising of standards and skills amongst licensed drivers in order to protect the travelling public; and ensure people across West Yorkshire are transported safely and protected from harm; that people in Kirklees experience a high quality, clean, sustainable and green environment, as well as improve the customer experience.

3.2 Working with Partners

The proposed statutory guidance advocates working more closely with partnering agencies. This will support the Council in developing its links with a number of partners, including, Kirklees Safe Guarding Children's Board, West Yorkshire Police, Public Health, Environmental Health, Overview and Scrutiny Committee, Community Safety Partnership and other West Yorkshire Authorities (inc York).

3.3 Place Based Working

The proposed statutory guidance will support the Council in the wider aspect of place based working, for example having policies in place to address some of the issues surrounding cross border working.

3.4 Improving outcomes for children

The proposed statutory guidance will support the Council in ensuring children have the best start in life and to ensure that the people of Kirklees feel safe and are protected from harm. The Council has a duty to protect the travelling public and safeguard children travelling in licensed vehicles and in particular for the purposes of school transport.

3.5 Other (eg Legal/Financial or Human Resources)

Legal

There are possible legal implications arising from this Statutory Guidance, concerning the key legislation for taxi and private hire licensing, which is the Local Government (Miscellaneous Provisions) Act 1976 and how those decisions are taken. This will be explored in further detail with Legal Services prior and included in the draft response if necessary.

Equality Implications

The Equality Act 2010 creates the Public Sector Equality Duty (PSED) and in order to fulfil the PSED the Council is required to assess the impact of any proposed action on the equality objectives set out above. The way in which the Council approaches this task is to conduct Equality Impact Assessments (EIA).

The DfT has completed its own impact assessment on the Statutory Guidance.

4. **Consultees and their opinions**

4.1 Not applicable

5. **Next steps and timelines**

5.1 Consultation on the Statutory Guidance will end on the 22nd April 2019

6. **Officer recommendations and reasons**

6.1 Members are asked to note the Statutory Guidance, and delegate to officers, in conjunction with the Chair of the Licensing and Safety Committee, authority to respond to the consultation on behalf of the licensing service.

6.2 Members are asked to contact officers and / or the Chair of the Licensing and Safety Committee with any specific consideration to be fed into the consultation response.

7. **Cabinet portfolio holder's recommendations**

7.1 N/A

8. **Contact officer**

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9. **Background Papers and History of Decisions**

- Appendix I – Proposed Statutory Guidance

10. **Strategic Director responsible**

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