

Name of meeting: Licensing and Safety Committee

Date: 17th December 2020

Title of report: Department of Transport – Statutory Taxi and Private Hire Standards

Purpose of report: The purpose of this report is to inform Members of the recently published ‘Statutory Taxi and Private Hire Vehicle Standards and seek approval to commence a review of the Licensing Services hackney carriage and private hire polices in light of the published standards.

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 <u>Council’s Forward Plan (key decisions and private reports)?</u>	No
The Decision - Is it eligible for call in by Scrutiny?	Not Applicable
Date signed off by <u>Strategic Director</u> & name Is it also signed off by the Service Director for Finance? Is it also signed off by the Service Director for Legal Governance and Commissioning?	Colin Parr – 07.12.2020 Eamonn Croston – 07.12.2020 Julie Muscroft – 07.12.2020
Cabinet member portfolio	Cllr Paul Davies

Electoral wards affected: All

Ward councillors consulted: Not Applicable

Public or private: Public

Has GDPR been considered?

Yes. This report does not contain personal information.

1. Summary

1.1 The Statutory Standards set-out a range of robust measures to protect taxi and private hire vehicle passengers, particularly those most vulnerable.

1.2 Government advice is that licensing authorities must work together to ensure that, above all else, the taxi and private hire vehicle services the public use are safe.

1.3 As a result of the standards, a review of existing policies in relation to the hackney carriage and private hire trades will need to be undertaken.

2. Information required to take a decision

Background

2.1 The Council is responsible for licensing Hackney Carriage and Private Hire drivers, vehicles and operators. In undertaking those responsibilities, the Council has regard to the legislation in place including case law, relevant guidance, best practice documentation and its own policies and procedures.

2.2 On 21 July 2020 the Department for Transport ('DfT') published its "Statutory Taxi and Private Hire Vehicle Standards." The publication of these standards has been long awaited for some time and follows an extensive period of consultation by the Department for Transport following a number of high-profile incidents and issues highlighting the risk to members of the public and to drivers.

2.3 The standards reflect the significant changes within the industry in recent years, and lessons learned in respect of safeguarding children and vulnerable adults, and cases of child sexual abuse and exploitation (CSAE). The Policing and Crime Act 2017 made provisions for the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions, to protect children and vulnerable individuals who are over 18 from harm when using these services.

2.4 Although the focus of the standards produced, is on protecting children and vulnerable adults, it is expected that any passengers of these licensed vehicles will benefit from the recommendations, which aim to better regulate the taxi and private hire vehicle sector as a whole. It is felt that these issues are, in part, a result of the significant differences in standards applied to the licensing of drivers and vehicles across the country.

2.5 A copy of the new DfT standards are attached at **appendix I** to this report.

Overview of Standards

2.6 The Standards cover a wide range of issues, including driver, vehicle and operator standards. The main areas of the statutory standards cover the following -

- Licensing Policies (paras 3.1 & 3.5) - Authorities should produce a 'cohesive policy document' that brings all policy and procedures together. When formulating policies, the overriding objective must be to protect the public. Policies should be reviewed every five years but should also consider interim reviews should there be significant issues arising in their area. Kirklees

adopted its overarching policy in March 2019, and while the guidance recommends policy are reviewed every 5-years the Council's policy will be reviewed in light of these standards.

- Duration of licences (para 3.6 & 3.7) - Issuing driver licences for more than a year. Risk can be mitigated for drivers by authorities undertaking regular interim checks (e.g. regular Disclosure and Barring Service checks). The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and private hire vehicle drivers and five years for private hire operators.
- Whistleblowing (para 3.8) - 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. Licensing Authorities should have effective internal procedures in place for staff to raise concerns and for them to be dealt with openly and fairly.
- Criminal records checks (para 4.5) - Licensing Authorities should insist on licensed drivers signing up to the Disclosure and Barring Service's (DBS) Online Update Service. This allows the Licensing Authority to make checks at any time and at least every six months.
- Common Law Police Disclosures (para 4.11) - Licensing Authorities should maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used (previously the Notifiable Occupation Scheme).
- Licensee self-reporting (para 4.12) - Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of any of the offences within this scope should result in a review of their licence.
- Referrals to the DBS (para 4.14) - 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.
- Working with the Police (para 4.17) - action taken by the Licensing Authority as a result of information received from the Police should be fed-back to the Police.
- Sharing licensing information with other Licensing Authorities (para 4.20 & 4.21) - 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 (already requested as part of the application procedure). The National Anti-Fraud Network have developed a national register of taxi and private hire vehicle driver licence refusals and revocations (known as NR 3). Tools such as NR 3 should be used by Licensing Authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.

- Multi-Agency Safeguarding Hub (MASH) (para 4.28) - All Licensing Authorities should operate or establish a means to facilitate the objectives of a MASH (i.e. the sharing of necessary and relevant information between stakeholders). Obstacles in sharing information can be a barrier to effective safeguarding.
- Overseas convictions (para 4.35) - Licensing Authorities should seek or require applicants to provide where possible criminal records information or a 'Certificate of Good Character' from overseas in this circumstance to properly assess risk and support the decision-making process.
- Paragraphs 5.1 to 5.17 – Covers the regulatory framework, decision making, training for decision makers, and a recommended convictions policy.
- Safeguarding awareness training (para 6.6) – Licensing authorities should provide safeguarding advice and guidance and require that hackney carriage and private hire drivers undertake safeguarding training.
- Language proficiency (para 6.14 & 6.15) - All licence holders to demonstrate proficiency in English language. All drivers should be able to converse with passengers to understand destination, estimates of time along with other common passenger requests. A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation.
- Vehicle proprietors (para 7.2) - Licensing Authorities should require a basic disclosure from the DBS and that a check is undertaken annually.
- Stretched Limousines (para 7.14) - Consideration should be given to their licensing.
- In-vehicle visual and audio recording (CCTV) (para 7.9) - All Licensing Authorities should consult 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 private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.
- Private Hire Vehicle operators and staff (para 8.2 & 8.8) – All operators should be subject to an annual basic DBS check. Ancillary staff that have access to booking records should also be DBS checked.
- Joint authorisation of enforcement officers (para 9.2) - 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.
- Enforcement (para 9.3) - Joint authority agreements between authorities are encouraged. Drivers should be made aware of relevant policies and repercussions.

Implementation

2.7 It is important to note that it remains the decision of the Council as to whether or not the entirety of these standards should be implemented.

2.8 A full review of the current policies as recommended will allow Members to make an informed decision on which parts should be adopted. Section 2 of the Standards gives some detail of the legal framework under which the Standards are published and the effect this has in terms of the Council's decision. Members' attention is drawn particularly to sections 2.5 to 2.9 and the definitions covering the term 'must have regard'.

2.9 Members should note that in Section 2.8 of the Standards it is stated:

*Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority's practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority's defence. **In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.** The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).*

2.10 At Section 1.3 the Standards say:

*Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.***

2.11 It is clear there is an expectation that these new Standards are implemented. Setting the Standards does, however, remain the decision of the Council and where good reason can be found to depart from the new Statutory Standards it is possible to do so providing there is clear justification for the decision.

2.12 Members should also note, these are minimum standards, and nothing within the guidance prevents a licensing authority going over and above the recommendations made by the DfT.

3. Implications for the Council

3.1 Working with People

One of the Licensing Service key priorities is to ensure there is a raising of standards across the private hire and hackney carriage trades in order to protect the travelling

public; and ensure people across West Yorkshire are transported safely and protected from harm; and that people in Kirklees experience a high quality, clean, sustainable and green environment, as well as improve the customer experience.

1.2 Working with Partners

In developing its policies, the licensing services works 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).

1.3 Place Based Working

There is no specific impact in the context of this report. However, a review of policies will enable the service to examine how it interacts and engages with licence holders, residents and communities.

1.4 Climate Change and Air Quality

There is no specific impact in the context of this paper. However, a review of policy will be an opportunity look at any changes that may need to be made in relation to vehicle licensing and its impact on climate change and air quality.

1.5 Improving outcomes for children

The Council wants to ensure 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

1.6 Other (eg Legal/Financial or Human Resources) Consultees and their opinion

Legal

The principal legislation is the Town and Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

The purpose of taxi licensing is detailed in the Department for Transport "Taxi and Private Hire Licensing Best Practice Guide" paragraph 8 which states: "The aim of local authority licensing of the taxi and Private Hire Vehicle (PHV) trades is to protect the public."

Taxi and Private hire vehicle licensing in England and Wales is undertaken by licensing authorities, which have the responsibility for ensuring that the public travel in safe, well maintained vehicles driven by competent drivers; as well as providing a fair and reasonable service for the taxi and private hire vehicle trade. Council's following best practice will meet or communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistent and robust in decision making.

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 a Integrated Impact Assessment.

While there are no specific equality implications in the context of this report, an integrated Impact Assessment will be carried out as part of the review of the services policies.

2 Next steps and timelines

4.1 In a letter to Local Authorities introducing the Standards, the DfT made it clear that Local Authorities are expected to act upon the Standards without delay. However, since the publication of the Standards on 21 July 2020 there has been an upturn in cases of coronavirus both at a local and national level. It was hoped that post initial lockdown the economy was on the verge of commencing recovery and the aspiration was businesses may be returning to some form of normality.

4.2 However, as Members will be more than aware, this is not now the case and more restrictions have been placed on businesses and individuals. Councils have a key role to play both in terms of enforcing the Covid-19 restrictions imposed and supporting local communities. Resources to develop and implement new taxi policies may be restricted, as may be communities' abilities to respond to consultations on any draft proposals.

4.3 The Council will need to review its taxi licensing policies and standards so that as a minimum they meet the standards outlined in the DfT document. However, any standards adopted must be appropriate for Kirklees local needs, and the Council will need to be transparent in explaining the reasons for the standards it adopts.

4.4 As a result, the review that Officers recommend will see the service examine in detail its existing policies with a view to presenting a more detailed proposals of matters for consideration to Members of the Committee in June 2021. This will include any relevant information if the proposals brought for consideration depart from, or vary, the expected standards.

4.5 At the Licensing and Safety Committee meeting in June 2021, officers will be asking Members to consider the detailed proposals with a view to commencing formal consultation on any changes to policy. A further report will then be presented to Members of the Licensing and Safety Committee with the results of the consultation and any changes made as a result.

3 Officer recommendations and reasons

5.1 Members are recommended to –

- Note the report and the standards at **appendix I**,
- Instruct officers to commence a review of its policies in relation to hackney carriage and private hire licensing,
- Present the result of that review to Members of the Licensing and Safety Committee in June 2021

5.2 Agreeing to these recommendations will ensure the service can meet its obligations to consider the statutory standards taking into account resources available to carry out this review.

4 Cabinet Portfolio Holder's recommendations

Cllr Paul Davies supports a review of hackney carriage and private hire polices in light of the statutory guidance.

5 Contact officer

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6 Background Papers and History of Decisions

Department for Transport Statutory Standards as attached at appendix I

7 Service Director responsible

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