

**Name of meeting: Licensing and Safety Committee**

**Date: Wednesday 6<sup>th</sup> July 2022**

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

**Purpose of report:** The purpose of the report is to inform members of the results of consultation carried out between Tuesday 14<sup>th</sup> September 2021 and 30<sup>th</sup> March 2022 on the proposed changes to the Council's current hackney carriage and private hire licensing policy in line with the recommended vehicle standards published in the statutory guidance issued by the Department for Transport (DfT) and for members to make a decision regarding the various proposals included in the report.

<b>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?</b>	<b>No</b>
<b>Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)?</u></b>	<b>Key Decision –No</b> <b>Private Report/Private Appendix –No</b>
<b>The Decision - Is it eligible for call in by Scrutiny?</b>	<b>Not Applicable</b>
<b>Date signed off by <u>Strategic Director</u> &amp; name</b>	<b>Colin Parr – 27.06.22</b>
<b>Is it also signed off by the Service Director for Finance?</b>	<b>Eamonn Croston – 17.06.22</b>
<b>Is it also signed off by the Service Director for Legal Governance and Commissioning?</b>	<b>Julie Muscroft – 21.06.22</b>
<b>Cabinet member <a href="#">portfolio</a></b>	<b>Councillor Will Simpson</b>

**Electoral wards affected: All**

**Ward councillors consulted: None**

**Public or private: Public**

**Has GDPR been considered?** Yes, there is no personal data contained in this report

## 1. Summary

1.1 This report details the outcome of the consultation process in respect of the review of the current hackney carriage and private hire licensing policy in accordance with the guidance issued by the DfT and make decisions regarding any changes to the policy following a review of the results of the consultation.

1.2 The Council's policy relates to everyone in society as anyone can be a member of the travelling public as well as relating to those who are licenced. The policies aims to protect the public and not to control licence holders.

## 2. Information required to take a decision

2.1 At the meeting of this committee on 17<sup>th</sup> December 2020, it was reported that the DfT had published the guidance 'Statutory Taxi and Private Hire Vehicle Standards' and it was agreed that the current hackney carriage and private hire policy be reviewed in accordance with the guidance.

2.2 Officers carried out a comparison of the standards and the current hackney carriage and private hire licensing policy and highlighted the areas in which the council's current policy does not meet or exceed the requirements as laid out in the guidance issued by the DfT.

2.3 Following the review of the policy in line with the requirements set out in the guidance at the meeting of the committee on 20<sup>th</sup> July 2021 members agreed for a three-month consultation in relation to the proposed changes to the existing policy and that the results of the consultation be presented to Members of the Licensing and Safety Committee following the conclusion of the consultation.

2.4 **Appendix 1** shows a table with a summary of amendments, **Appendix 2** is the draft policy, including appendices, and a copy of the DfT standards are attached at **Appendix 3**.

2.5 The consultation commenced on Tuesday 14<sup>th</sup> September 2021 and as the 3 months were ending it was noted that although the responses received at the three-month period were encouraging, a decision was taken to extend the consultation period to maximise the opportunity for people to respond. The consultation ended on 30<sup>th</sup> March 2022.

2.6 The list of those consulted is as follows:

- West Yorkshire Police
- Kirklees Public Health
- Kirklees Safeguarding Children's Board
- Kirklees Safeguarding Adults board
- Safer Kirklees
- Kirklees CCG
- All Ward Councillors

- All Licence Holders (driver/vehicle/operator)
- Private Hire and Hackney Carriage Association Members
- Members of the public via Council comms
- LADO
- Susie Lamplugh Trust – Personal Safety Charity
- National Private Hire and Taxi Association
- Neighbouring licensing authorities
- GMB – Trade Union

2.7 In addition to this several drop-in sessions were offered for the hackney carriage and private hire trade to attend; specifically:

- Dewsbury Town Hall – Tuesday 26<sup>th</sup> October 2021 from 10:00 to 15:00
- Huddersfield – Hudawi Centre – Thursday 28<sup>th</sup> October 2021 from 10:00 to 15:00
- Batley Town Hall - Wednesday 17<sup>th</sup> November 2021 from 10:00 to 15:00
- Virtual Drop-in session for Hackney Carriage Trade Representatives – Tuesday 18<sup>th</sup> January 2022 at 11:00
- Virtual Drop-in session for Private Hire Operators – Tuesday 18<sup>th</sup> January 2022 13:30

2.8 The final number of respondents to the consultation was 428, these responded in each category were:

- Licensed Driver = 250 responses
- Members of the Public = 133 responses
- Licensed Private Hire Operators = 18 responses
- Councillors = 13 responses
- Licensed vehicle proprietors = 5 responses
- Other = 4 responses (3 West Yorkshire Police, 1 neighbouring licensing authority)

2.9 The standards cover a wide range of issues and each one will be addressed individually in this report with options and decisions for each point.

2.10 The consultation posed 11 questions that related to the areas within the policy which did not already meet or exceed the standards in the DfT guidance.

- Question 1, results, and a summary of additional comments are shown at **Appendix 4.**
- Question 2, results, and a summary of additional comments are shown at **Appendix 5.**
- Question 3, results, and a summary of additional comments are shown at **Appendix 6.**
- Question 4, results, and a summary of additional comments are shown at **Appendix 7.**

- Question 5, results, and a summary of additional comments are shown at **Appendix 8**.
- Question 6, results, and a summary of additional comments are shown at **Appendix 9**.
- Question 7, results, and a summary of additional comments are shown at **Appendix 10**.
- Question 8, results, and a summary of additional comments are shown at **Appendix 11**.
- Question 9, results, and a summary of additional comments are shown at **Appendix 12**.
- Question 10, results, and a summary of additional comments are shown at **Appendix 13**.
- Question 11, results, and a summary of additional comments are shown at **Appendix 14**.

2.11 **Appendix 15** Shows all the additional comments submitted at the end of the consultation, with responses.

2.12 **Appendix 16** Shows the results to all questions posed and all comments. In addition to the online survey responses were received via email, post and through the drop-in sessions, all responses and comments were transferred to the online survey in order to enable collation and analysis of the results.

### Integrated Impact Assessment

2.13 Officers have completed a Stage one Integrated Impact Assessment which highlighted potential impacts on protected characteristics and therefore directed officers to carry out a Stage 2 assessment, copies of those Integrated Impact Assessments are attached at **appendix 17 and 18**. The Integrated Impact Assessments, were completed in consultation with the council's Policy team.

2.14 Members, when considering the contents of this report and coming to a decision on the recommendations contained within, must take into account the Council's Public Sector Equality Duty and its duties under the Equalities Act 2010 ('the Act'); with one of those duties being to eliminate unlawful discrimination whether that be direct or indirect discrimination.

2.15 Direct discrimination is where an individual is treated less favourably than another person because of their protected characteristic, or because someone thinks an individual has a protected characteristic, or the individual is connected to someone who has a protected characteristic. An individual can be directly discriminated against because of their age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

2.16 Indirect discrimination can be characterised as a practice, policy or rule which applies to everyone in the same way but has a more detrimental effect on some people than others therefore putting them at a particular

disadvantage. A person can be indirectly discriminated against if that practice, policy or rule has a worse effect on them because of their age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

2.17 The policies and procedures of the Licensing Service apply to all licensed holders and all applicants, irrespective of a person's background; therefore, the policies and procedures of the licensing service are unlikely to lead to direct discrimination. However, it is accepted that within Kirklees the majority of private hire and hackney carriage licence holders are males, from a BAME background and therefore the application of the policies and procedures of the Licensing Service are more likely to impact those protected groups. In addition, comments were received during the consultation that refer to the requirements for a certificate of good conduct, suggesting it will impact on those with Muslim faith which brings religious beliefs into consideration. Therefore, there is potential the application of those policies and procedures, because of the makeup of its licence holders, could be seen as indirect discrimination.

2.18 While there is potential for the application of the licensing services policies and procedures to be seen as indirect discrimination, this does not automatically mean those policies and procedures are unlawful. The Act states where it can be shown the indirect discrimination is a proportionate means of achieving a legitimate aim then it is not unlawful.

2.19 The overriding aim of the private hire and hackney carriage licensing regimes is one of public protection, private hire and hackney carriage licence holders are placed in a significant position of trust and hold considerable power over their customers. It is vital therefore the policies and procedures relating to the licensing of the private hire and hackney carriage trades are robust and ensure only those people who are safe, suitable and would not take advantage of their passengers, are issued with or retain a licence. Failure to understand this legitimate aim and the role the Council's policy and procedures play can lead to a direct potential danger to the public and a loss of public confidence in the licensing regime.

2.20 The Department of Transport Statutory Standards have been set to directly address past failings of licensing authorities and protect children, vulnerable adults and the wider public, that is the legitimate aim of the standards; and the Council, in its capacity as Licensing Authority, are under a legal duty to have regard to the standards. The Department for Transport in issuing the standards make it clear the standards have been introduced following detailed discussion with the trade, regulators and safety campaign groups. The Department for Transport also make it clear they expect the recommendations to be implemented unless there is a compelling local reason not to.

2.21 Taking in to account the information contained within this report Members, when coming to their decision will have to consider if the proposed changes to the Council's private hire and hackney carriage licensing policies

as a result of the Statutory Standards, are a proportionate means of achieving the legitimate aim of protecting and safeguarding vulnerable children, adults and the wider public, and therefore justify any potential indirect discrimination.

### **3. Implications for the Council**

#### **3.1 Working with People**

One of the licensing services key priorities is to ensure there is a raising of standards across the private hire and hackney carriage trades to protect the travelling public; and ensure that the people across West Yorkshire are transported safely and are protected from harm. And that people in Kirklees experience a high quality, clean, sustainable, and green environments, as well as an improved customer experience.

#### **3.2 Working with Partners**

In developing policies the licensing service works with a number of partners including (but not exclusively) Kirklees Safeguarding Children's and Adults Boards, 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**

There is no specific impact in the context of this report. However, reviewing policies enables the service to examine the way in which it interacts and engages with licence holders, residents and communities.

#### **3.4 Climate Change and Air Quality**

There is no impact in relation to climate change and air quality in relation to this report.

#### **3.5 Improving outcomes for children**

The Council has a duty to protect the travelling public and specifically safeguard the vulnerable, which includes the safeguarding of children travelling in licensed vehicles and for the purposes of school transport.

Our aim is to improve standards and hold our licence holders to those standards as a direct method of protecting children.

#### **3.6 Financial Implications of people living or working in Kirklees**

There are no financial implications for people living or working in Kirklees.

#### **3.7 Other (eg Legal/Financial or Human Resources) Consultees and their opinions**

## Legal

No additional legal comments

## Human Resources

Some of the changes in the policy will have an administrative and enforcement/compliance burden on the authority. This will be recovered through a review of the licensing fees and through other efficiencies, such as moving to the online application system.

## **4. Next steps and timelines**

4.1 It has been made clear in a letter from the DfT to all Council's that local authorities are expected to act upon the standards without delay.

4.2 Members are being asked to make a decision in relation to each of the proposed changes in turn.

4.3 Members are reminded, when considering whether to adopt the recommendations in this report, the purpose of the standards issued by the DfT are to safeguard and protect children, vulnerable adults and the wider public. Members are also reminded that they 'must have' regards to the standards and that having regard "is more than having a cursory glance at a document before arriving at a preconceived conclusion."

The standards state at paragraph 2.7

*2.7 "Having regard" to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated. [...]*

4.4 Members are reminded that the questions have come directly from the differences between the DfT standards, and our current policy and members are asked to consider this alongside the outcome of the consultation.

4.5 Following members decisions in relation to each point, it may result in the policy being formally updated and published. In relation to the points where members are asked to instruct officers to carry out further work and report back following this will mean that the policy will remain as is until the outcome of the work and a further decision from members.

## 5. Officer recommendations and reasons

### Question 1

**Do you agree that 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?**

Options: -

1. Adopt the statutory standards
2. Keep existing policy, including the reason for the decision to deviate from the statutory guidance.
3. Set own timescale based on results of the consultation, including the reason for the decision to deviate from the statutory guidance.

Recommendation –

It is recommended that members agree to amend the existing policy to the proposed change to 48-hour notification to the licensing authority. Where the expiry of the 48 hours falls over a weekend or a public holiday discretion will be exercised.

The reason for this recommendation is to ensure that the licensing authority can review information at the earliest opportunity and assess whether it is necessary take any immediate action in the interest of public safety.

When considering this point, Members should be aware evidence exists to show that drivers do not comply with the current policy of seven days. If Members are minded to agree with this recommendation, officers will look at how drivers can be educated on the requirements so as to reduce the likelihood of drivers falling foul of this requirement

### Question 2

**Do you agree that if the Licensing authority make a decision to refuse or revoke a licence due to an individual being thought to be a risk of harm to a child or vulnerable adult this matter should be referred to the DBS?**

Options: -

1. Adopt the statutory standards
2. Reject the statutory standards, including the reason for the decision to deviate from the guidance,

Recommendation-

It is recommended that we agree to the wording in the standards, it should be noted that although not written into the current policy. This practice has taken place when deemed necessary. To adopt this would be in accordance with the Safeguarding Vulnerable Groups Act 2006.



### **Question 3**

**If action is taken by the council as a result of information being received from the police, do you agree that the information should be then fed back to the police?**

Options: -

1. Adopt the statutory standards
2. Reject the statutory standards, including the reason for the decision to deviate from the guidance.

Recommendation –

It is recommended that we agree to the wording in the standards, it should be noted that although not written into the current policy. This practice has taken place when deemed necessary.

### **Question 4**

**Do you agree that where an applicant has spent an extended period of three or more continuous months outside of the UK the application should be required, where possible to provide criminal records information or a 'certificate of good character' from the country in which they have resided?**

Options: -

1. Adopt the statutory standards
2. Keep the policy as 6 months, including the reason for the decision to deviate from the guidance.
3. Set own timescale based on results of the consultation, including the reason for the decision to deviate from the guidance.

Recommendation –

It is recommended that members agree to keep the existing requirement at six months. The reason for this recommendation is that considering local circumstances, many licence holders licensed in Kirklees are from a BAME background, knowledge and experience shows that a large proportion of the trade visit foreign countries for extended periods of time to visit families and friends and the requirements would be too onerous and have a detrimental impact on the BAME community.

### **Question 5**

**Do you agree that all vehicle proprietors who do NOT hold a valid hackney carriage / private hire drivers' badge should complete a basic disclosure from the DBS (Disclosure Barring Service) at first application and a check required annually for the duration of the vehicle licence?**

Options: -

1. Adopt statutory standard

2. Keep to existing policy where vehicle proprietors do not require a DBS, including the reason for the decision to deviate from the guidance.
3. Adopt the standard but set a time period based on results of the consultation, including the reason for the decision to deviate from the guidance.

Recommendation –

It is recommended that members agree to adopt the requirement of the statutory standards, to consider whether the applicant or licence holder with a conviction for offences, other than those relating to driving, meet the ‘fit and proper’ threshold.

### **Question 6**

**Do you agree that all ancillary staff that work at private hire operator bases and have access to booking records should be required to complete an annual DBS check?**

Options: -

1. Adopt the statutory standard
2. Keep existing policy which does not require ancillary staff that work at private hire operator bases and have access to booking records to complete an annual DBS check, including the reason for the decision to deviate from the guidance.
3. Adopt the standard but a set a different timescale for the frequency of requirement for the staff to have a DBS completed based on results of the consultation, including the reason for the decision to deviate from the guidance.

Recommendation -

It is recommended that members adopt the proposed standard. Operator base staff have access to personal and sensitive data, such as when people are on holiday, where they work and the hours they work, where children go to school, etc. It is important that operators are carrying out suitable checks on their employees to ensure that sensitive and personal information is safeguarded.

### **Question 7**

**Do you agree that private hire operators should keep a register of all staff that take bookings or dispatch vehicles, including confirmation that they have completed an annual DBS check and that they provide their policy on employing ex-offenders, for those persons on the register?**

Options: -

1. Adopt the statutory standard
2. Keep existing policy which does not require private hire operators to keep a register of all staff that take bookings or dispatch vehicles, including confirmation that they have completed a DBS check or to provide a policy on employing ex-offenders, for those persons on the register, including the reason for the decision to deviate from the guidance.

Recommendation -

It is recommended that members adopt the proposed standard. This supports the recommendation for question 6.

### **Question 8**

#### **Do you agree with the proposed changes to the condition in relation to the recording of bookings by private hire operators?**

Currently licensed operators are required to complete records of their bookings, the existing requirements are as follows:

An Operator shall keep a true and accurate record of every booking of a Private Hire vehicle invited or accepted by him. The record shall be kept on computer or in a suitable book with consecutively numbered pages. Before each journey commences the Operator shall enter therein:-

- i. The place at which the booking was received and the date and time thereof
- ii. The name of the hirer
- iii. Whether the booking was made by telephone, personal call or other means (to be stated)
- iv. The address or other place from which it is to commence, the address or place of destination and the requested time, if any, for the journey to commence
- v. The plate number of the vehicle to be used for the journey
- vi. The name of the driver undertaking the hiring

If a computer is used it must be connected to a printer at all times in order that records can be printed on demand of an authorised officer of the Council, a police constable, or a police community support officer. The records must not be able to be retrospectively altered in any way.

The proposed changes to the existing requirements are shown below:

An Operator shall keep a true and accurate record of every booking of a Private Hire vehicle invited or accepted by him. The record shall be kept on computer or in a suitable book with consecutively numbered pages. Before each journey commences the Operator shall enter therein:-

- i. The place at which the booking was received and the date and time thereof
- ii. The **full name of the hirer and the contact number used to make the booking**

- iii. Whether the booking was made by telephone, personal call or other means (to be stated)
- iv. The address or other place from which it is to commence, the address or place of destination and the requested time, if any, for the journey to commence
- v. The plate number of the vehicle to be used for the journey
- vi. The name of the driver undertaking the hiring and the booking record clearly identifies the plate number and registration number of the private hire vehicle used and the badge number of the private hire driver for every journey.
- vii. The name of any other individual that responded to the booking request.

If a computer is used it must be connected to a printer at all times in order that records can be printed on demand of an authorised officer of the Council, a police constable, or a police community support officer. The records must not be able to be retrospectively altered in any way.

Options: -

1. Adopt the changes to the existing requirements in accordance with the standards.
2. Keep the existing requirements, including the reason for the decision to deviate from the guidance.
3. Adopt the changes in part.

Recommendation -

Considering the results of the consultation it is recommended to adopt the changes in accordance with the standards but remove the requirement for the full name as it is accepted that it may be challenging for operators to obtain the full name of a hirer and leave it as just the name of the hirer/passenger.

### **Question 9**

**Do you agree that there are local circumstances that indicate the installation of CCTV would have either a positive or adverse effect on the safety of taxi and private hire vehicle users?**

Options: -

1. If a local need is indicated based on the results of the consultation, instruct officers to carry out further work on establishing whether there is a need for a CCTV policy to be implemented with a more detailed report to be brought to members in due course.
2. Decide there is no local need for a specific CCTV policy within Kirklees as the current position is that if a vehicle proprietor chooses to install CCTV within their vehicle it is their choice and it is neither supported nor discouraged by the authority.

Recommendation-

Following the results of the consultation, the majority of those that responded feel that CCTV will have a positive effect and therefore, it is recommended that members instruct officers to carry out further work/engagement regarding the need of a CCTV policy within Kirklees.

### **Question 10**

**Do you agree that the council should have a specific policy in relation to stretch limousines?**

Options: –

1. Instruct officers to develop a specific policy in relation to stretch limousines to be brought back for a decision by members at a later date.
2. Keep existing position whereby they are licensed under existing policies and procedures and do not have a specific section within the existing policy.

Recommendation –

50% of the respondents were for a policy, as there is nothing specific to stretch limousines and the increased usage of them for school proms etc, it is recommended that member instruct officers to develop a specific policy in relation to them and bring the proposed policy back to members for consideration.

### **Question 11**

**Do you agree that the decision making should stay delegated to the Group Leader for Licensing?**

Option and recommendation: -

The guidance issued by the Department for Transport recommends that decision making should be the responsibility of a panel of suitably trained elected members. The results of the consultation show that many respondents do not agree that decision making should be the sole responsibility of one person. At this time, it is difficult to provide more options as following the collation of the results of the consultation it is clear there is more work needed to investigate possible options for decision making going forward. In addition to this any changes to the decision making may require a change to the constitution.

Therefore, can we ask members to instruct officers to investigate possible options relating to decision making and the implications for those options and present members with a more detailed report in due course.

## **6. Cabinet Portfolio Holder's recommendations**

Councillor Will Simpson has no additional comments.

## **7. Contact officer**

Fiona Goldsmith  
Public Protection Group Leader – Licensing

01484 221000(ext 79921) or [Fiona.goldsmith@kirklees.gov.uk](mailto:Fiona.goldsmith@kirklees.gov.uk)

## **8. Background Papers and History of Decisions**

Department for Transport Statutory Standards as attached at Appendix 3

[Agenda for Licensing and Safety Committee on Thursday 17th December 2020, 10.00 am | Kirklees Council](#)

[Agenda for Licensing and Safety Committee on Tuesday 20th July 2021, 10.00 am | Kirklees Council](#)

## **9. Service Director responsible**

Katherine Armitage  
Service Director – Climate Change and Environment  
Tel: 01484 221000  
Email: [Katherine.armitage@kirklees.gov.uk](mailto:Katherine.armitage@kirklees.gov.uk)