



ST HELENS
BOROUGH COUNCIL

St Helens Response to the Department for Transport Statutory Taxi & Private Hire Vehicle Standards

The Policing and Crime Act 2017 ('the Act') enabled 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.

In July 2020, the Secretary of State for Transport published the Statutory Taxi and Private Hire Vehicle Standards under section 177(1) of the Act following consultation in accordance with section 177(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 private hire vehicle licensing regimes. "Having regard" is more than having a cursory glance at a document before arriving at a preconceived conclusion.

"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. It is not a question of box ticking; the standards must be considered rigorously and with an open mind.

Whilst the focus of the 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 the guidance are the result of detailed discussion with the trade, regulators and safety campaign groups. The Department for Transport therefore expects these recommendations to be implemented unless there is a compelling local reason not to.

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 for Transport has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).

The Statutory Taxi and Private Hire Vehicle Standards 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.

This document is the Licensing Authority's formal response to the Statutory Taxi and Private Hire Vehicle Standards and their implementation into the operation of Taxi Licensing in St Helens.

3. ADMINISTERING THE LICENSING REGIME

Licensing policies

3.1 *The Department recommends that all Licensing Authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire licensing.*

Response: The Licensing Authority introduced its first Taxi Licensing Policy in 2016 which is reviewed as appropriate and published on the Council website. This includes policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards. .

3.5 *Licensing authorities should review their licensing policies every five years but should also consider interim reviews should there be significant issues arising in their area, and their performance annually.*

Response: The Policy is in the process of being reviewed in light of the Statutory Standards and the review of the Best Practice Guidance consultation published by the Department for Transport. Prior to adoption, the Licensing Authority will conduct a full consultation with the trade and interested parties.

Duration of licences

3.7 *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 vehicle operators. Any shorter duration licence should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, if a licensee has requested one 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; they should not be issued on a 'probationary' basis.*

Response: The Licensing Authority operates according to the law when issuing taxi and private hire licences.

Whistleblowing

3.8 *It is in the application of licensing authority's 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. Licensing authorities should have effective internal procedures in place for staff to raise concerns and for any concerns to be dealt with openly and fairly.*

3.11 *The Public Interest Disclosure Act 1998 (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.

Response: The Council has published a Whistleblowing Policy which is accessible to all staff via the Council's Intranet.

Consultation at the local level

3.12 Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle 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.

3.13 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas; and licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change. Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; this should be adopted by all authorities.

Response: The Licensing Authority consults with the licensed trade, partners, the local trade and service users in relation to any proposed change to licensing policy.

Changing licensing policy and requirements

3.14 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 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.

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

Response: The Licensing Authority already conducts a review of licences following any change to licensing requirements and shall continue to do so. Where appropriate, an implementation schedule is communicated promptly and clearly to those affected.

4. GATHERING AND SHARING INFORMATION

4.1 *Licensing authorities must consider as full a range of information available to them when making a decision whether to grant a licence and to meet their ongoing obligation to ensure a licensee remains suitable to hold a licence.*

The Disclosure and Barring Service (DBS) and DBS Update Service

4.2 *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.*

4.4 *The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.*

4.5 *Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.*

Response: Until 2020, the Licensing Authority carried out three yearly enhanced DBS checks on new applicants and licensed drivers, similar to many other authorities. In response to the publication of the Statutory Standards, in December 2020 the Licensing and Environmental Committee approved the introduction of twice-yearly enhanced DBS checks for licensed drivers and a mandatory subscription to the online update service.

Common Law Police Disclosure

4.10 *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.*

4.11 *This procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. 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.*

Response: The Licensing Authority already works closely with the police not just within the region, but as drivers change location, other police forces across the country. Common Law Police Disclosure enables the Licensing Authority to act swiftly in cases where there is a public protection risk, and the Licensing Authority will continue to work closely with the police to ensure relevant information is shared.

To ensure that the Licensing Authority has appropriate protocols in place the following information sharing is undertaken:

- Weekly Meetings with the local Superintendent and Chief Inspector
- Monthly Meetings with Police Licensing
- Common Law Police Disclosures and information sharing
- Targeted Campaigns

Licensee self-reporting

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 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.

Response: The Licensing Authority's current procedure requires licence holders notify licensing in writing of any intended prosecution, caution, conviction or fixed penalty notice for any offence within 7 days. This is also known as the '7 day rule' and is part of the licence conditions. In 2022 an online version of the notification form was introduced which increases data integrity, as it is completed by the licence holder and fed directly into the licensing databases. The Licensing Authority will consider amending the licence conditions to require disclosure within 48 hours when the Taxi Licensing Policy is reviewed in the near future.

Referrals to the Disclosure and Barring Service

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

4.15 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;*

If the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

Response: Licensing Authorities often hold detailed intelligence on individuals who are thought to present a risk of harm to a child or vulnerable adult and the Licensing Authority will consider whether it is appropriate to refer such individuals to the DBS when a driver's licence is revoked, or an application refused.

Sharing licensing information with other licensing authorities

4.20 *As has been stated elsewhere in this document, 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 and licensees should 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. Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.*

Response: **The Licensing Authority requires applicants to disclose if they hold or have previously held a licence with another authority and to disclose if they had an application for a licence refused or a licence revoked by another authority.** The Licensing Authority has held an information sharing agreement with other authorities in the Liverpool City Region for a number of years. Authorities regularly share relevant information on applicants or licence holders to ensure the safety of the travelling public remains paramount.

4.21 *The LGA commissioned the National Anti-Fraud Network to develop a national register of taxi and private hire vehicle driver licence refusals and revocations (the register is known as 'NR3'). Tools such as NR3 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.*

Response: The Licensing Authority was one of the early adopters of the NR3 and continues to use the system on a very regular basis. The Licensing Authority has recently received a letter from Baroness De Vere commending the work undertaken in this area.

4.22 *For these processes 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.*

4.23 *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 private hire vehicle 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 practice.*

4.24 *If notification under paragraph 4.20 or 4.21 of a refused or revoked licence is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. In those circumstances, the relevant licensing authority must consider whether it should disclose any information in relation to the previous decision, consistent with its obligations under data protection legislation. If information is disclosed, it 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. Licensing authorities should not simply replicate a previous decision, authorities must consider each application on its own merits and with regard to its own policies.

Response: The Licensing Authority maintains a complete and accurate record as to the reasons for refusal, suspension or revocation of a licence. The Licensing Authority responds regularly to DPA requests from a number of authorities and relevant organisations and ensures that every request for information is considered in accordance with the relevant law and guidance. The Licensing Authority also requests information on the refusal, suspension or revocation of a licence from other authorities where appropriate, in order to determine an applicant or licence holder's fitness to be licenced. The Licensing Authority always considers the relevance of any information disclosed and each decision is taken on its own merits.

Multi-agency Safeguarding Hub (MASH)

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

4.27 The Home Office report on Multi Agency Working and Information Sharing 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 Groups 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.

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). As has been emphasised throughout this document, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and private hire vehicles is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

Response: St Helens operates a MASH Group which meets regularly. Relevant information is shared regularly with the Licensing Authority through the Complex Safeguarding Lead.

Complaints against licensees

4.29 Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.

4.30 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.

4.31 To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all 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 private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.

Response: The Licensing Authority has published information on how to make a complaint about a licence holder on the Council's website. Information is easy to find as are the recommended links to ensure that it is simple to register a complaint or matter of concern. Complaints are also received by the Licensing Authority verbally by telephone and by email. All information received is stored in the corresponding licence holder's file and any concerns promptly acted on by the Licensing Authority which includes notifying the licence holder.

Private Hire Operators are also actively encouraged to share their concerns and complaints relating to drivers with the Licensing Authority. Information received is acted on and there have been a number of successful examples of Operators working with the Authority to resolve concerns. Some Operators are more willing to share information than others however the Licensing Authority will shortly review its licensed Operator conditions, which will include a remind of the Operator's duty of care to their customers.

Overseas Convictions

4.34 The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. 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; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK. It should however be noted that some countries will not provide an 'Certificate of Good Character' unless the individual has been resident for six months or more.

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 (. It is the character of the applicant as an adult that is of particular interest, therefore an extended period outside the UK before the age of 18 may be

less relevant. As with all licensing decisions, each case must be considered on its own merits. For information on applying for overseas criminal record information or 'Certificates of Good Character' please see the Home Office guidance.

4.36 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in the annex to this document (Annex – Assessment of previous convictions), licensing authorities should advise the applicant to seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

Response: The Licensing Authority does request criminal records information or a 'Certificate of Good Character' from overseas applicants however individuals often experience difficulties with their embassies providing such documents. In these cases, when evidence to support an application is limited, the application is referred to the Licensing and Environmental Protection Committee for determination. These applicants are encouraged to source other relevant information to support their application.

5. DECISION MAKING

Administration of the licensing framework

5.1 A policy is only effective if it is administered properly. The taxi and private hire vehicle 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 when 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. In London the taxi and private hire vehicle licensing function is undertaken by Transport for London.

Response: The administration of taxi and private hire licensing functions is clearly set out in scheme of delegation contained within the Council's constitution, which is published on the Council's website.

5.2 Licensing authorities should ensure that all individuals that determine whether a licence is issued or refused are adequately resourced to allow them to discharge the function effectively and correctly.

Response: There is a dedicated officer resource within the Licensing Authority for taxi and private hire licensing, supported by officers within Legal Services. The team are well trained to a high standard and deliver an excellent service over a range of communication mediums including online applications, in person appointments, telephone calls, text messaging, email service and soon to be introduced, webchats.

Training the Decision Makers

5.3 All individuals that determine whether a licence is issued should be required to undertake sufficient training. As a minimum, training for a member of a licensing committee should include: licensing procedures, natural justice, understanding the risks of CSAE, disability and equality awareness and the making of difficult and potentially controversial decisions. Training should not simply relate to procedures,

but should include the use of case study material to provide context and real scenarios

Response: The Licensing Authority already provides annual mandatory training for Committee members and relevant Council officers which meets these requirements. This training has been provided for a number of years by James Button, Solicitor and President of the Institute of Licensing and is formally recorded. Members who have not undertaken training are not permitted to determine licences until they have done so.

Members of the Licensing Committee are well trained, understand their role and are engaged in the process. Members are supporting in determining licence matters by officers from Legal Services and there is a provision at all Committees for Members to declare an interest, which they are encouraged to do at the earliest opportunity.

THE REGULATORY STRUCTURE

5.6 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.

Response: As already stated, the administration of taxi and private hire licensing functions is clearly set out in scheme of delegation contained within the Council's constitution, which is published on the Council's website. The determination of non-executive licensing functions is delegated to the Licensing and Environmental Protection Committee, which considers each case on its own merits. Less contentious matters are further sub-delegated to officers, where appropriate and in accordance with the published scheme of delegation.

5.11 Whether the structure proposed is introduced or an alternative model is more appropriate in local circumstances, the objective should remain the same - to separate the investigation of licensing concerns and the management of the licence process. Regardless of which approach is adopted, all licensing authorities 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.

Response: The Licensing Authority already has an established procedure for dealing with serious matters which may require the immediate revocation of a licence in the interests of public safety. This function is delegated to the Licensing Manager in consultation with Legal Services and the Chair of Licensing Committee.

Fit and Proper Test

5.12 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle 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?

5.13 If, on the balance of probabilities, the answer to the question is ‘no’, the individual should not hold a licence.

5.14 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 take into consideration conduct that has not resulted in a criminal conviction.

Response: The Licensing Authority welcomes the addition of this helpful question in the Standards as a similar form of wording has been applied by the Licensing Authority for a number of years and the Licensing Authority intends to include this test in the soon to be reviewed Policy. As stated above, Members of the Licensing Committee and officers involved in licensing determinations receive training and are well aware that the safeguarding of the public is paramount. Members and officers are also aware of the burden of proof for licensing decisions and what relevant information can be taken into consideration.

Criminal Convictions and Rehabilitation

5.15 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.

Response: Liverpool City Region authorities adopted a unified convictions policy in 2017 with the aim of ensuring that standards are applied consistently throughout the region. The policy is due for review and the Licensing Authority will consider the recommendations annexed to the guidance on the assessment of previous convictions. The Licensing Authority is also awaiting the publication of the recently consulted Best Practice Guidance, to assess any implications.

6. DRIVER LICENSING

Criminality checks for drivers

6.1 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. The DfT’s 2019 survey of taxi and private hire vehicle licensing authorities

shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal.

6.2 All individuals applying for or renewing a taxi or private hire vehicle drivers licence licensing authorities should carry out a check of the children and adult Barred Lists in addition to being subject to an enhanced DBS check (in section x61 of the DBS application 'Other Workforce' should be entered in line 1 and 'Taxi Licensing' should be entered at line 2). All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.

Response: This is already covered in the response to 4.2 above.

6.4 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the Safeguarding Vulnerable Groups Act 2006. It is an offence to knowingly allow a barred individual to work in regulated activity. The guidance on home-to-school travel and transport issued by the Department for Education should be considered alongside this document. Please see guidance on driver DBS eligibility and how to apply.

Response: In St Helens, the Licensing Authority and School Transport work together to ensure that safeguarding is paramount in these areas. Applications to undertake school transport are scrutinised and checks carried out regularly. Active systems are in place to ensure that former licensed drivers who have had their licence revoked do not attempt to access work which entails transporting children.

Safeguarding awareness and 'county lines exploitation'

6.6 All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers 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.

Response: Mandatory safeguarding training has already been in operation in St Helens since 2016 and meets these requirements. This training was reviewed by an independent body and acknowledged as best practice across the Liverpool City Region. The training is delivered in house and regularly reviewed.

6.11 Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation.

Response: The mandatory safeguarding training also includes a section on County Lines and provides a standard template for drivers to report any concerns.

Language Proficiency

6.14 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. Oral proficiency will be of relevance in the identification of potential

exploitation through communicating with passengers and their interaction with others.

6.15 A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above.

Response: The Licensing Authority already tests English language proficiency to some extent within the mandatory essential skills assessment.. This is currently being reviewed and a revised English language assessment will be considered, in 2023.

7. VEHICLE LICENSING

7.1 As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

Criminality Checks for Vehicle Proprietors

7.2 Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.

Response: The Licensing Authority propose to introduce annual basic checks from 2023 for Operators and base staff.

In-vehicle Visual and Audio Recording – CCTV

7.7 Government has acknowledged the potential risk to public safety when passengers travel in taxis and private hire vehicles. It is unfortunately the case that no matter how complete the information available to licensing authorities is when assessing whether to issue any taxi or private hire vehicle licence, nor how robust the policies in place are and the rigor with which they are applied, it will never completely remove the possibility of harm to passengers by drivers.

7.8 The Department's view is that CCTV can provide additional deterrence to prevent this and investigative value when it does.

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.

7.13 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.

Response: At present, some licensed vehicles are fitted voluntarily with CCTV in St Helens, however the Licensing Authority will conduct a future consultation on the installation of CCTV in all licensed vehicles.

Stretched Limousines

7.14 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. It is the Department's view 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 these services from the scope of the private hire vehicle regime and the safety benefits this provides.

Response: The Licensing Authority does not currently licence any stretch limousines and rarely receives enquiries. This is not a policy but a reflection of the existing local market. Any applicant would be required to source a suitable test station to provide the Licensing Authority with a satisfactory assessment of the vehicle, its suitability to carry passengers and its roadworthiness. Regular testing stations cannot accommodate such vehicles due to their size.

8. PRIVATE HIRE OPERATOR LICENSING

8.1 As with driver licensing, the objective in licensing private hire vehicle operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those that are granted a private hire vehicle operator also pose no threat to the public and have no links to serious criminal activity. Although private hire vehicle operators may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the driver licensing regime.

Criminality checks for private hire vehicle operators

8.2 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually. Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC).

Booking and dispatch staff

8.8 Licensing authorities should be satisfied that private hire vehicle 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, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept.

8.9 Operators should be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to 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. DBS certificates provided by the individual should be recently issued when viewed, alternatively the operator could use a 'responsible organisation' to request the check

on their behalf. When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.

Response: The Licensing Authority already requires a Basic DBS check from private hire operators who are not licenced drivers. In 2020 the Licensing Authority introduced mandatory safeguarding training and Basic DBS disclosures for all staff who work in operator bases. This issue will be considered further when the Licensing Authority reviews its Taxi Licensing Policy in the near future.

Record keeping

8.13 Section 56 of the Local Government (Miscellaneous Provisions) Act 1976 requires private hire vehicle 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. Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:

- 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;*
- the name of any individual that responded to the booking request;*
- the name of any individual that dispatched the vehicle.*

8.14 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 booking records should be retained for a minimum of six months.

8.15 Private hire vehicle 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.

Response: Private hire operators and their records are regularly inspected by the Licensing Authority to ensure compliance with requirements and any breaches, or concerns are acted upon.

Use of passenger carrying vehicles (PCV) licensed drivers

8.16 PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle 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 private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.

Response: As part of the review of Taxi Licensing Policy, the Licensing Authority will consider how these drivers are currently operating on Council contracts.

9. ENFORCING THE LICENSING REGIME

9.1 *Implementing an effective framework for licensing authorities to ensure that as full a range of information made available to suitably trained decision makers that are supported by well-resourced officials is essential to a well-functioning taxi and private hire vehicle sector. These steps will help prevent the licensing of those that are not deemed 'fit and proper' but does not ensure that those already licensed continue to display the behaviours and standards expected.*

Joint authorisation of enforcement officers

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. 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. This will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and drivers that are licensed by the other authority when they cross over boundaries.*

Response: In the Liverpool City Region, various models of this have been piloted. The Licensing Authority is currently considering how to address this issue with other regional authorities.

Setting expectations and monitoring

9.3 *Licensing authorities should ensure that drivers are aware of the policies that they must adhere and 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.*

Response: All St Helens licence holders are provided with a copy of the relevant policies, which are also available on the Council's website, and advised appropriately on how to access further information and support.

Suspension and revocation of driver licences

9.6 *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 private hire vehicle sector has been issued by the Home Office. 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.*

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

Response: The Licensing Authority has a robust approach to determining whether a licence holder remains fit and proper to continue to hold a licence and licence holders are invited to attend an interview with Licensing Officers to respond to any concerns. The Licensing Authority is advised by officers in Legal Services to ensure compliance with the relevant law when considering action against an existing licence holder and all decisions are made on the balance of probabilities, after consideration of all evidence presented

Annex of Documents

The 4 annex documents will be considered by the Licensing Authority when the Taxi Licensing Policy is reviewed in the near future.

Ends