



Monday, 4 March 2019

Dear Sir/Madam

A meeting of the Licensing and Appeals Committee will be held on Tuesday, 12 March 2019 in the New Council Chamber, Town Hall, Foster Avenue, Beeston NG9 1AB, commencing at 10.00 am.

Should you require advice on declaring an interest in any item on the agenda, please contact the Monitoring Officer at your earliest convenience.

Yours faithfully

Chief Executive

To Councillors:	E H Atherton	J C Patrick
	D Bagshaw	M E Plackett
	D A Burnett BEM (Chair)	K E Rigby
	M J Crow	P D Simpson
	T A Cullen	A W G A Stockwell
	W J Longdon (Vice-Chair)	D A Elliott
	R D MacRae	

AGENDA

1. APOLOGIES

2. DECLARATIONS OF INTEREST

Members are requested to declare the existence and nature of any disclosable pecuniary interest and/or other interest in any item on the agenda.

3. MINUTES

PAGES 1 - 2

The Committee is asked to confirm as a correct record the minutes of the meeting held on 28 January 2019.

4. PROPOSAL FOR HACKNEY CARRIAGE FARES INCREASE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 PAGES 3 - 6
- To consider a proposal to increase hackney carriage fare rates from 1 May 2019.
5. GOVERNMENT RESPONSE TO THE REPORT OF THE TASK AND FINISH GROUP ON TAXI AND PRIVATE HIRE VEHICLE LICENSING PAGES 7 - 16
- To advise the Committee of the Government's response to the report of the Task and Finish Group on Taxi and Private Hire Vehicle (PHV) Licensing released on 12 February 2019.
6. CONSULTATION ON STATUTORY GUIDANCE TO LICENSING AUTHORITIES TAXI AND PRIVATE HIRE VEHICLE LICENSING: PROTECTING USERS PAGES 17 - 30
- To advise members of a consultation by the Department for Transport (DfT) seeking views on proposed recommendations contained in draft statutory guidance to taxi and private hire vehicle (PHV) licensing authorities on how their licensing powers can be exercised in order to safeguard children and vulnerable adults and to propose a response from Broxtowe Borough.
7. HACKNEY CARRIAGE AND VEHICLE LICENSING POLICY AMENDMENT PAGES 31 - 34
- To ask Committee to consider amending the current Hackney Carriage and Private Hire Licensing Policy.

LICENSING AND APPEALS COMMITTEE

28 JANUARY 2019

Present: Councillor D A Burnett BEM, Chair

Councillors: E H Atherton	J C Patrick
D Bagshaw	M E Plackett
E Cubley (substitute)	K E Rigby
T A Cullen	P D Simpson
W J Longdon	A W G A Stockwell
R D MacRae	

Apologies for absence were received from Councillors M J Crow and M Radulovic MBE.

22. DECLARATIONS OF INTEREST

Councillors R D MacRae and K E Rigby declared interests in agenda item number 6 due to pre-determination, minute number 26 refers.

23. MINUTES

The minutes of the meetings held on 11 December were confirmed as a correct record and signed.

24. ANIMAL WELFARE (LICENSING OF ACTIVITIES INVOLVING ANIMALS) (ENGLAND) REGULATIONS 2018

The Committee considered changes in the licensing of animal activities legislation, in addition to proposed fees and charges and associated policies and procedures arising from the new legislation.

RESOLVED that:

- 1. Environmental Health Officers and Environmental Health Technical Officers in Public Protection are authorised under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.**
- 2. The Chief Executive, Head of Public Protection, and the Chief Environmental Health Officer be delegated responsibility for the issue, refusal, variation and amendment of animal licences and associated conditions.**
- 3. Premises ratings be published during April 2020.**

RECOMMENDED that the proposed fees and charges in respect of animal activities licensing to the Finance and Resources Committee for approval and thereafter be subject to the regular review in accordance with other fees and charges.

25. EXCLUSION OF PUBLIC AND PRESS

RESOLVED that, under Section 100A of the Local Government Act, 1972, the public and press be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Schedule 12A of the Act.

26. APPEAL AT STAGE 3 OF THE COUNCIL'S GRIVANCE POLICY

Members considered details relating to an appeal of a former employee. Outcomes were sought on two grounds of appeal.

RESOLVED that:

- 1. The Interim Monitoring Officer's decision be upheld.**
- 2. The Interim Monitoring Officer's decision be upheld.**

(Having declared interests in the item, Councillors R D MacRae and K E Rigby left the meeting prior to debate or voting on the item. Councillor W J Longdon had to leave the meeting for personal reasons during the Committee's deliberations on the item and therefore did not vote on it.)

21. APPEAL AGAINST DISMISSAL

Members considered details relating to an appeal of a former employee. Outcomes were sought four grounds of appeal.

RESOLVED that:

- 1. The Deciding Officer's finding of 'Gross Misconduct' be amended to 'Misconduct'.**
- 2. Summary dismissal was inappropriate and that dismissal with pay in lieu of notice be the appropriate and reasonable decision.**
- 3. There was no failure to follow procedure and upholds the decision of the Deciding Officer.**
- 4. There was no evidence of prejudice or bias.**

Report of the Chief Executive

**PROPOSAL FOR HACKNEY CARRIAGE FARES INCREASE
LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**1. Purpose of report

To consider a proposal to increase hackney carriage fare rates from 1 May 2019.

2. Background

The Local Government (Miscellaneous Provisions) Act 1976 gives local authorities the power to fix hackney carriage rates in the borough.

3. Detail

The present fees were last increased on 1 June 2015. The matter has been raised by members of the "Taxi" trade and as in the past, it was decided to consult directly with the drivers and four options were offered.

The proposals are outlined in appendix 1 and a summary of the responses from the driver consultation which closed on 28 January 2019 will be advised at the Committee meeting. The Committee is asked to consider which one should be accepted. Any proposed increase is subject to public consultation under section 65(2) of the Local Government (Miscellaneous Provisions) Act 1976 and must be published in a newspaper with a 14 day period for representations to be made. Any relevant representations will be reported to committee for consideration prior to implementation.

For reference purposes the Consumer Price Index (CPI) shows a 6% increase from January 2015 to December 2018. However the CPI increase for fuel for the same period is 12.3%.

A table showing the percentage increase for each proposal together with current fares from neighbouring local authorities is contained within the appendix.

4. Financial implications

The Council is required to advertise the proposed fee increase at an approximate cost of £500 which is contained within existing budgets.

Recommendation**The Committee is asked to:**

1. **CONSIDER** the proposed increases and **RESOLVE** accordingly.
2. **RESOLVE** to advertise any proposed increase in hackney carriage fare rates as detailed in the report.

Background papers

Nil

APPENDIX 1

Fare Proposals (£)

Current Fees (from 1 June 2015)	Option 1 Current	Option 2	Option 3	Option 4
First 880 yards	2.50 (880 yd)	3.00 (880 yd)	2.80 (880 yd)	2.50 (880 yd)
Subsequent 88 yards	0.10 (88 yd)	0.10 (88 yd)	0.10 (88 yd)	0.10 (80 yd)
(1 Mile /1609 metres approx)	3.50	4.00	3.80	3.60
Thereafter each 88 yards	0.10	0.10	0.10	0.10 (80yd)
(each mile/1609 metres approx)	2.00	2.00	2.00	2.20
each 20 sec waiting time	0.10	0.10	0.10	0.10
Surcharges				
Journey made 12.00 midnight to 6.00am per hiring excluding Christmas and New Year periods	1¼ times normal rate			
All statutory Bank Holidays except Christmas and New Year periods From 6.00am till 6.00am the following day	1¼ times normal rate			
Christmas period from 6.00pm 24 December to 6.00am 27 December New Year period from 6.00pm 31 December to 6.00am 2 January	2 times normal rate			
Vehicles licensed to carry 5 or more passengers (When carrying 5 or more passengers)				
Journey made between 6.01am and 11.59pm	1½ times normal rate			
Journey made 12.00 midnight to 6.00am per hiring excluding Christmas and New Year periods	1½ times normal rate			
All statutory Bank Holidays except Christmas and New Year periods From 6.00am till 6.00am the following day	1½ times normal rate			
Christmas period from 6.00am 24 December to 6.00am 27 December New Year period from 6.00am 31 December to 6.00am 2 January	2 times normal rate			
Soiling Charge	40.00	40.00	40.00	40.00
First Mile (% increase)	3.50	4.00 (14.3%)	3.80 (8.6%)	3.60 (2.9%)
Two Miles (% increase)	5.50	6.00 (9.1%)	5.80 (5.5%)	5.80 (5.5%)
Five Miles (% increase)	11.50	12.00 (4.3%)	11.80 (2.6%)	12.40 (7.8%)
Ten Miles (% increase)	21.50	22.00 (2.3%)	21.80 (1.4%)	23.40 (8.8%)

Option 1: No change

Option 2: £0.50 increase on first 880 yds only

Option 3: £0.30 increase on first 880 yds only

Option 4: No increase in first 880 yds but reduction to 80 yds for each following increment.

Neighbouring Authority Fares (£)
(Year of last change to fare in brackets)

Authority	Initial	1 Mile	2 Miles	5 Miles	10 Miles
Ashfield (2014)	3.00 (1 Mile)	3.00	4.80	7.23	19.20
Erewash (2016)	3.50 (1 Mile)	3.50	5.50	11.50	21.50
Rushcliffe (2013)	2.00 (165 Metres)	3.54	5.55	11.58	21.63
Amber Valley (2014)	3.00 (1 Mile)	3.00	5.10	11.40	21.90
Mansfield (2011)	2.50 (880 yds)	3.25	4.75	9.25	16.75
Gedling (2011)	3.10 (1.5 K)	3.23	5.32	11.59	22.04
Nottingham City (2018)	2.00 (110 mtr)	4.68 (1609 mtr)	6.80 3218 (mtr)	12.55 (8045 mtr)	22.44 (16090 mtr)

NOTE: Fares should legally be set in imperial rather than metric units.
Units of Measurement Regulations 1995 Reg 5(2).

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Report of the Chief Executive

GOVERNMENT RESPONSE TO THE REPORT OF THE TASK AND FINISH GROUP ON TAXI AND PRIVATE HIRE VEHICLE LICENSING1. Purpose of report

To advise the Committee of the Government's response to the report of the Task and Finish Group on Taxi and Private Hire Vehicle (PHV) Licensing released on 12 February 2019.

2. Background

The Government established a Task and Finish Group (TFG) on Taxi and Private Hire Vehicle Licensing in September 2017. The group had a wide remit to look at current taxi and PHV legislation and licensing authority powers and to make recommendations to address any issues identified.

The TFG submitted its report and recommendations to Government on 9 July 2018. The Government published its response on 12 February 2019.

3. Content

The TFG comprised a number of interested bodies and persons related to the Taxi and PHV trades and a number of other bodies and persons were interviewed by them. There was no public consultation. However, the Local Government Association represented the interests of licensing authorities.

The TFG recommendations and a précis of the Government responses are listed in the appendix.

The document can be accessed at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/775983/taxi-task-and-finish-gov-reponse.pdf

4. Financial Implications

There are no financial implications in this noting report.

Recommendation

The Committee is asked to NOTE the report

Background papers

Nil

APPENDIX

Recommendations of the Task and Finish Group and Government Responses

Recommendation 1

Notwithstanding the specific recommendations made below, taxi and PHV legislation should be urgently revised to provide a safe, clear and up to date structure that can effectively regulate the two-tier trade as it is now.

Government response

We will set out in this response what legislation the Government proposes to take forward. In the short term this does not include a full replacement of the law which regulates taxi and private hire.

Recommendation 2

Government should legislate for national minimum standards for taxi and PHV licensing - for drivers, vehicles and operators (see recommendation 6). The national minimum standards that relate to the personal safety of passengers must be set at a level to ensure a high minimum safety standard across every authority in England.

Government must convene a panel of regulators, passenger safety groups and operator representatives to determine the national minimum safety standards. Licensing authorities should, however, be able to set additional higher standards in safety and all other aspects depending on the requirements of the local areas if they wish to do so.

Government response

The Government agrees that there should be national minimum standards for taxi and PHV licensing, and will take forward legislation when time allows to enable these.

Recommendation 3

Government should urgently update its Best Practice Guidance. To achieve greater consistency in advance of national minimum standards, licensing authorities should only deviate from the recommendations in exceptional circumstances. In this event licensing authorities should publish the rationale for this decision. Where aspects of licensing are not covered by guidance nor national minimum standards, or where there is a desire to go above and beyond the national minimum standard, licensing authorities should aspire to collaborate with adjoining areas to reduce variations in driver, vehicle and operator requirements. Such action is particularly, but not exclusively, important within city regions.

Government response

The Department is for the first time consulting on statutory guidance to be issued to licensing authorities which details the Department's view of how their functions may be exercised so as to protect children and vulnerable adults from harm. Licensing authorities are obligated to have regard to this guidance

Recommendation 4

In the short-term, large urban areas, notably those that have metro mayors, should emulate the model of licensing which currently exists in London and be combined into one licensing area. In non-metropolitan areas collaboration and joint working between smaller authorities should become the norm. Government having encouraged such joint

working to build capacity and effectiveness, working with the Local Government Association, should review progress in non-metropolitan areas over the next three years.

Government Response

The Government agrees that collaboration and joint working can be helpful in ensuring efficient operation of taxi and PHV licensing in smaller local authorities. The Government will keep progress in this area under review.

Recommendation 5

As the law stands, 'plying for hire' is difficult to prove and requires significant enforcement resources. Technological advancement has blurred the distinction between the two trades. Government should introduce a statutory definition of both 'plying for hire' and 'pre-booked' in order to maintain the two-tier system. This definition should include reviewing the use of technology and vehicle 'clustering' as well as ensuring taxis retain the sole right to be hailed on streets or at ranks. Government should convene a panel of regulatory experts to explore and draft the definition.

Government response

Government does not intend to take this recommendation forward at this time.

Recommendation 6

Government should require companies that act as intermediaries between passengers and taxi drivers to meet the same licensing requirements and obligations as PHV operators, as this may provide additional safety for passengers (e.g. though greater traceability).

Government response

Government is not convinced that there is a compelling case for the licensing of taxi intermediaries

Recommendation 7

Central Government and licensing authorities should 'level the playing field' by mitigating additional costs faced by the trade where a wider social benefit is provided – for example, where a wheelchair accessible and/or zero emission capable vehicle is made available.

Government response

The Government does not propose to introduce further financial incentives for taxis and PHVs based on vehicle type at the current time, however, we will keep this under review.

Recommendation 8

Government should legislate to allow local licensing authorities, where a need is proven through a public interest test, to set a cap on the number of taxi and private hire vehicles they license. This can help authorities to solve challenges around congestion, air quality and parking and ensure appropriate provision of taxi and private hire services for passengers, while maintaining drivers' working conditions.

Government response

The Government does not propose to take this recommendation forward. We would instead wish to see local authorities make the most use of existing powers to address air quality and congestion issues.

Recommendation 9

All licensing authorities should use their existing powers to make it a condition of licensing that drivers cooperate with requests from authorised compliance officers in other areas. Where a driver fails to comply with this requirement enforcement action should be taken as if the driver has failed to comply with the same request from an officer of the issuing authority

Government response

The Government welcomes this recommendation.

Recommendation 10

Legislation should be brought forward to enable licensing authorities to carry out enforcement and compliance checks and take appropriate action against any taxi or PHV in their area that is in breach of national minimum standards (recommendation 2) or the requirement that all taxi and PHV journeys should start and/or end within the area that issued the relevant licences (recommendation 11).

Government response

The Government will work closely with licensing authorities and enforcement officers to ensure that the precise scope of national enforcement powers, and how they would be used in practice, are carefully considered and defined.

Recommendation 11

Government should legislate that all taxi and PHV journeys should start and/or end within the area for which the driver, vehicle and operator (PHVs and taxis – see recommendation 6) are licensed. Appropriate measures should be in place to allow specialist services such as chauffeur and disability transport services to continue to operate cross border.

Operators should not be restricted from applying for and holding licences with multiple authorities, subject to them meeting both national standards and any additional requirements imposed by the relevant licensing authority.

Government response

Government agrees with the principle of this recommendation, and will consider further (with a view to legislation) how it might best work in detail.

Recommendation 12

Licensing authorities should ensure that their licensing administration and enforcement functions are adequately resourced, setting fees at an appropriate level to enable this.

Government response

We urge licensing authorities to ensure that they have efficient and effective procedures in place to minimise the cost to the trade of establishing a robust and well-resourced licensing body and undertake a review of their licensing fees to recover the permissible costs and no more of providing this.

Recommendation 13

Legislation should be introduced by the Government as a matter of urgency to enable Transport for London to regulate the operation of pedicabs in London

Government response

The Government fully supports this recommendation.

Recommendation 14

The Department for Transport and Transport for London should work together to enable the issue of Fixed Penalty Notices (FPNs) for both minor taxi and PHV compliance failings. The Department for Transport should introduce legislation to provide all licensing authorities with the same powers.

Government response

Government will engage with licensing authorities to establish if there is significant demand for a power to issue fixed penalty notices outside of London to assist in the enforcement of national minimum standards.

Recommendation 15

All ridesharing service services should explicitly gain the informed consent of passengers at the time of the booking and commencement of the journey.

Government response

Licensing authorities may wish to ensure that their operator licensing conditions make clear that operators must do this.

Recommendation 16

The Department for Transport must as a matter of urgency press ahead with consultation on a draft of its Statutory Guidance to local licensing authorities. The guidance must be explicit in its expectations of what licensing authorities should be doing to safeguard vulnerable passengers. The effectiveness of the guidance must be monitored in advance of legislation on national minimum standards.

Government response

The consultation on the Statutory Guidance commenced on 12 February 2019

Recommendation 17

In the interests of passenger safety, particularly in the light of events in towns and cities like Rochdale, Oxford, Newcastle and Rotherham, all licensed vehicles must be fitted with CCTV (visual and audio) subject to strict data protection measures. Licensing authorities must use their existing power to mandate this ahead of the requirement's inclusion in national minimum standards.

To support greater consistency in licensing, potentially reduce costs and assist greater out of area compliance, the Government must set out in guidance the standards and specifications of CCTV systems for use in taxis and PHVs. These must then be introduced on a mandatory basis as part of national minimum standards

Government response

The Government's view on the use of CCTV in taxis and private hire vehicles is set out in the consultation on draft statutory guidance

Recommendation 18

As Government and local authorities would benefit from a reduction in crime in licensed vehicles both should consider ways in which the costs to small businesses of installing CCTV can be mitigated.

Government response

The cost of installing a CCTV system is similar to a replacement set of tyres for a vehicle; as such we do not consider subsidising of these additional costs is necessary.

Recommendation 19

National standards must set requirements to assist the public in distinguishing between taxis, PHVs and unlicensed vehicles. These should require drivers to have on display (e.g. a clearly visible badge or arm-band providing) relevant details to assist the passengers in identifying that they are appropriately licensed e.g. photograph of the driver and licence type i.e. immediate hire or pre-booked only.

All PHVs must be required to provide information to passengers including driver photo ID and the vehicle licence number, in advance of a journey. This would enable all passengers to share information with others in advance of their journey. For passengers who cannot receive the relevant information via digital means this information should be available through other means before passengers get into the vehicle.

Government response

The Government will consider what vehicle and driver identification requirements should be included within national minimum requirements, focussing on supporting safety.

Recommendation 20

All drivers must be subject to enhanced DBS and barred lists checks. Licensing authorities should use their existing power to mandate this ahead of inclusion as part of national minimum standards.

All licensing authorities must require drivers to subscribe to the DBS update service and DBS checks should must be carried out at a minimum of every six months. Licensing authorities must use their existing power to mandate this ahead of inclusion as part of national standards.

Government response

The Government agrees with both parts of this recommendation, and they are included in the statutory guidance which has been issued for consultation

Recommendation 21

Government must issue guidance, as a matter of urgency, that clearly specifies convictions that it considers should be grounds for refusal or revocation of driver licences and the period for which these exclusions should apply. Licensing authorities must align their existing policies to this ahead of inclusion in national minimum standards.

Government response

The Government agrees with this recommendation, and its view has been included in the statutory guidance which has been issued for consultation

Recommendation 22

The Quality Assurance Framework and Common Law Police Disclosure Provisions must be reviewed to ensure as much relevant information of behaviours as well as crimes by taxi and PHV drivers (and applicants) is disclosed to and to ensure licensing authorities are informed immediately of any relevant incidents.

Government response

Government will discuss the provision of information with the NPCC with a view to ensuring that appropriate steps are being taken to provide relevant information to licensing authorities.

Recommendation 23

All licensing authorities must use the National Anti-Fraud Network (NAFN) register of drivers who have been refused or had revoked taxi or PHV driver licence. All refusals and revocations must be recorded, and the register checked for all licence applications and renewals. Licensing authorities must retain the reasons for any refusal, suspension or revocation and provide those to other authorities as appropriate. The Government must, as a matter of urgency, bring forward legislation to mandate this alongside a national licensing database (recommendation 24).

Government response

Government intends that information about drivers who have had licences refused or revoked would be one part of the wider-ranging national database discussed against the next recommendation (24).

Recommendation 24

Government must establish a mandatory national database of all licensed taxi and PHV drivers, vehicles and operators, to support stronger enforcement.

Government response

Government will legislate for the creation of a national taxi and private hire database, as a necessary accompaniment to national enforcement powers.

Recommendation 25

Licensing authorities must use their existing powers to require all drivers to undertake safeguarding / child sexual abuse and exploitation awareness training including the positive role that taxi/PHV drivers can play in spotting and reporting signs of abuse and neglect of vulnerable passengers. This requirement must form part of future national minimum standards.

Government response

Government intends that this requirement would be included in national minimum standards.

Recommendation 26

All individuals involved in the licensing decision making process (officials and councillors) must have to undertake appropriate training. The content of the training must form part of national minimum standards.

Government response

Government intends that the requirement for training would be included in national minimum standards.

Recommendation 27

Government must review the assessment process of passenger carrying vehicle (PCV) licensed drivers and/or consider the appropriate licensing boundary between taxis/PHVs and public service vehicles (PSVs).

Government response

Licensing authorities should use their existing powers to include as a condition of a PHV operator's licence that bookings received by that licence-holder must be fulfilled using a PHV licensed driver and vehicle.

Government supports this recommendation.

Recommendation 28

Licensing authorities must require that all drivers are able to communicate in English orally and in writing to a standard that is required to fulfil their duties, including in emergency and other challenging situations.

Government response

Government intends that these training requirements will be included in national minimum standards.

Recommendation 29

All licensing authorities should use their existing powers to require that their taxi and PHV drivers undergo disability awareness and equality training. This should ultimately be mandated as part of national minimum standards.

Government response

Government will continue to monitor the proportion of Wheelchair Accessible Vehicles (WAVs) within overall taxi and PHV fleets, as reported in the annual DfT taxi and PHV statistics, and to seek clarification from authorities as to the steps they are taking to assess and respond to the local need for such vehicles.

Recommendation 30

Licensing authorities that have low levels of WAVs in their taxi and PHV fleet should ascertain if there is unmet demand for these vehicles. In areas with unmet demand licensing authorities should consider how existing powers could be used to address this, including making it mandatory to have a minimum number of their fleet that are WAVs. As a matter of urgency the Government's Best Practice Guidance should be revised to make appropriate recommendations to support this objective

Government response

Government will continue to monitor the proportion of WAVs within overall taxi and PHV fleets, as reported in the annual DfT taxi and PHV statistics, and to seek clarification from authorities as to the steps they are taking to assess and respond to the local need for such vehicles.

Recommendation 31

Licensing authorities which have not already done so should set up lists of Wheelchair Accessible Vehicles (WAVs) in compliance with s.167 of the Equality Act 2010, to ensure that passengers receive the protections which this provides.

Government response

Government strongly encouraged licensing authorities to publish lists under section 167 of the Equality Act 2010 to ensure that wheelchair users are protected from discriminatory behaviour.

Recommendation 32

Licensing authorities should use their existing enforcement powers to take strong action where disability access refusals are reported, to deter future cases. They should also ensure their systems and processes make it as easy as possible for passengers to report disability access refusals.

Government response

Licensing authorities should use the powers available to them, and take robust action against those who have discriminated illegally against disabled passengers.

Recommendation 33

The low pay and exploitation of some, but not all, drivers is a source of concern. Licensing authorities should take into account any evidence of a person or business flouting employment law, and with it the integrity of the National Living Wage, as part of their test of whether that person or business is "fit and proper" to be a PHV operator.

Government response

Government will legislate to improve the clarity of the employment status tests, reflecting the reality of modern working relationships.

Recommendation 34

Government should urgently review the evidence and case for restricting the number of hours that taxi and PHV drivers can drive, on the same safety grounds that restrict hours for bus and lorry driver.

Government response

Government will engage informally with sector stakeholders to determine whether it is possible to more accurately assess the hours drivers are working, and whether there is a trend for working more or excessive hours. The Government is mindful not just of road safety, but also of the need to avoid burdensome, yet difficult to enforce, regulation.

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Report of the Chief Executive

CONSULTATION ON STATUTORY GUIDANCE TO LICENSING AUTHORITIES TAXI AND PRIVATE HIRE VEHICLE LICENSING: PROTECTING USERS1. Purpose of report

To advise members of a consultation by the Department for Transport (DfT) seeking views on proposed recommendations contained in draft statutory guidance to taxi and private hire vehicle (PHV) licensing authorities on how their licensing powers can be exercised in order to safeguard children and vulnerable adults and to propose a response from Broxtowe Borough.

2. Background

The Secretary of State may issue guidance to public authorities as to how their licensing functions under taxi and private hire vehicle legislation may be exercised so as to protect children, and vulnerable individuals who are 18 or over, from harm. Section 177 of the Policing and Crime Act 2017 requires the Secretary of State to consult widely on the guidance before publication.

The consultation runs for 10 weeks from 12 February 2019 until 22 April 2019.

3. Detail

The DfT issued Best Practice Guidance (BPG) to assist those licensing authorities in England and Wales that have responsibility for the regulation of the taxi and private hire vehicle (PHV) trades in 2006. The Guidance was previously revised and updated in 2010. The statutory guidance forms a part of the BPG and will replace relevant sections of the 2010 version.

A consultation on revising the BPG will be undertaken once the final statutory guidance has been issued.

A draft response to the consultation is attached in the appendix.

3. Financial implications

There are no current financial implications currently.

Recommendation

The committee is asked to NOTE the consultation and RESOLVE to submit a response.

Background papers

Nil

Taxi and private hire vehicle licensing: protecting users**1. Introduction**

Thank you for taking the time to read the consultation document and to respond to the questions. Your answers will help us to firm up statutory guidance to taxi and private hire vehicle (PHV) licensing authorities on how their licensing powers can be exercised in order to safeguard children and vulnerable adults.

The easiest way to respond to this consultation is online:

<https://www.smartsurvey.co.uk/s/taxis-licence/>

The online version allows you to save your response and continue it later and to save or print off a copy for your records.

Confidentiality and data protection

The Department for Transport (DfT) is carrying out this consultation to gather views and evidence on measures for inclusion within the statutory guidance issued to taxi and PHV licensing authorities. This consultation and the processing of personal data that it entails is necessary for the exercise of our functions as a government department. If your answers contain any information that allows you to be identified, DfT will, under data protection law, be the controller for this information.

As part of this consultation we're asking for your name and email address. This is in case we need to ask you follow-up questions about any of your responses. You do not have to give us this personal information. If you do provide it, we will use it only for the purpose of asking follow-up questions.

We may contract a third party to analyse the responses we receive to the consultation. If you provide your contact details, we may share this information with a contractor in case they need to contact you regarding your consultation response.

DfT's privacy policy has more information about your rights in relation to your personal data, how to complain and how to contact the Data Protection Officer. You can view it at <https://www.gov.uk/government/organisations/department-for-transport/about/personal-information-charter>.

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Your information will be kept securely and destroyed within 12 months after the consultation has been completed. Any information provided through the online questionnaire will be moved from their system to our internal systems within 2 months of the consultation end date.

Find out more about the Department for Transport's data protection and privacy policy.

2. Personal details

1. Your name and email address. We will only use this if we need to contact you to ask about any of your responses.

Your name

Your email

3. About you

2. Are you responding: *

as an individual?

as a taxi driver?

as a PHV driver?

as a taxi intermediary?

as a PHV operator?

a licensing authority

the police

other (specify)?

4. Administration of the licensing framework

3. The draft statutory guidance recommends that all those involved in the determination of licensing matters should receive training covering licensing procedures, natural justice, child sexual abuse and exploitation, disability and equality in addition to any other issues deemed locally appropriate (paragraph 2.18). Do you agree with the recommendation?

Yes

No

No opinion

Comment below if you want to explain your answer.

It is vitally important that all those involved in the determination of licensing matters should receive comprehensive training and this should be formally recorded. Members should not participate in such matters unless trained accordingly,

4. The draft statutory guidance recommends a Council structure for dealing with licensing matters (paragraphs 2.20-2.24). Do you agree with this proposed structure?

Yes

No

No opinion

Comment below if you want to explain your answer.

There must be a Council structure in place to deal with licensing matters. It is recommended that Councils operate with a Committee or Board that is convened at periodic intervals to determine licensing matter. This should be set out in the council's scheme of delegation and be explicit in terms of who deals with which matters, the options and restrictions. All taxi and phv decisions are appealable to the Courts so it is important that the delegation is properly validated and adopted.

It is a matter for the authority to decide if the decision is officer led or committee led but all decisions must be properly reasoned and recorded. Should there be a departure from the Council's policy, this should be referenced and reasons given for such a departure.

5. Implementing changes to the licensing policy and requirements

5. The draft statutory guidance recommends that all issued licences should be reviewed following changes in licensing policy (paragraph 2.29). Do you agree with this recommendation?

Yes

No

No opinion

Comment below if you want to explain your answer.

A pragmatic and considered approach, as outlined in the guidance, should be taken. Reasonable time should be given to allow compliance to be managed and the changes and timescales should be properly communicated.

6. The Disclosure and Barring Service

6. The draft statutory guidance recommends that all drivers should be subject to an enhanced Disclosure and Barring Service (DBS) with barred lists check for individuals applying for or renewing taxi and PHV driver licences (paragraph 2.32). Do you agree with this recommendation?

Yes

No

No opinion

Comment below if you want to explain your answer.

All drivers should be subject to the most rigorous DBS checks available. Drivers will potentially be in contact with vulnerable persons at some stage in their working role. This should be a legislative requirement.

7. The draft statutory guidance recommends that all licence holders should be required to subscribe to the DBS update service (paragraph 2.38). Do you agree with this recommendation?

Yes

No

No opinion

Comment below if you want to explain your answer.

Subscription to the update service will reduce the administrative burden and mitigate potential delays for applicants and licensing authorities. However it is vitally important that the non-conviction information provided by the police is robustly managed. Police Disclosure Units should ensure that relevant information is provided directly to licensing authorities where a need arises rather than a potential 9 month delay in updates.

Common Law Police Disclosure needs to be properly considered in the light of the Quality Assurance Framework to ensure public safety is not compromised.

8. The draft statutory guidance recommends that appropriate DBS checks are conducted every 6 months (paragraph 2.39). Do you agree with this recommendation?

Yes

No

No opinion

Comment below if you want to explain your answer.

Currently checks are undertaken every 12 months irrespective of the length of the issued licence. (1-3 years). Compulsory subscription to the update service will make a six monthly check less burdensome to licensing authorities and enhance public safety.

7. Licensee self-reporting

9. The draft statutory guidance recommends that drivers and operators should be required to notify the issuing authority within 48 hours upon arrest and release, charge or conviction of any motoring offence or any offence involving dishonesty, indecency or violence (paragraph 2.41). Do you agree with this recommendation?

Yes

No

No opinion

Comment below if you want to explain your answer.

We would agree with this but would suggest that ANY criminal conviction or motoring offence be notified to the authority. There is a wide range of potentially relevant offences not covered by the proposal. As drivers and operators may be loath to notify, clear policies, procedures and penalties should be outlined in policy.

8. Referrals to DBS and the police

10. The draft statutory guidance recommends that licensing authorities should make referrals to the DBS when it considers that an applicant or licence holder is thought to present a potential risk of harm to the public (paragraph 2.43). Do you agree with this recommendation?

Yes

No
No opinion

Comment below if you want to explain your answer.

It is entirely appropriate for licensing authorities to make a referral to the DBS. The DBS should then investigate the referral and take the appropriate action. It is important to ensure that the referral process is accessible and uncomplicated to complete. There should be no barrier to enabling licensing authorities in exercising their public protection duties.

9. Overseas convictions

11. The draft statutory guidance recommends that a check of overseas criminality information or 'Certificate of Good Character' should be required, when an individual has spent a period of more than 3 continuous months outside the UK when over the age of 18 (paragraph 2.47). Do you agree with this recommendation?

Yes
No
No opinion

Comment below if you want to explain your answer.

It is important that licensing authorities have a proper history to base their decisions upon. Regrettably some applicants will not be able to provide such documentation due to their immigration status. The licensing authority will need to determine the application with this in mind.

10. Other information

12. The draft statutory guidance recommends that licensing authorities should require applicants / licensees to disclose if they have been licensed elsewhere, or have had an application for a licence refused, or have had a licence revoked or suspended by any other licencing authority (paragraph 2.57). Do you agree with this recommendation?

Yes
No
No opinion

Comment below if you want to explain your answer.

It is not unknown for applicants who have been licensed in neighbouring or nearby authorities to make applications prior to any decision made by the current licensing authority. The requirement should include any on-going issues which may result in revocation or suspension. The LGA recommendation that neighbouring authorities should be in communication is a point well made.

13. The draft statutory guidance recommends that licensing authorities should use tools such as the national register of taxi and PHV driver licence refusals and revocations (NR3) to improve information sharing (paragraph 2.58). Do you agree with this recommendation?

Yes

No

No opinion

Comment below if you want to explain your answer.

Licensing authorities should use all the tools at their disposal to ensure that the decision making process is as robust as possible.

14. The draft statutory guidance recommends that the authority considering the application/renewal should consult and consider other licensing decisions in its assessment, when an applicant/licensee discloses they: have had an application refused, or had a licence revoked or suspended elsewhere (paragraph 2.60). Do you agree with this recommendation?

Yes

No

No opinion

Comment below if you want to explain your answer.

All relevant information should be considered as part of the decision making process. Licensing authorities must exercise their public protection duty in as robust a manner as possible.

11. Multi-agency safeguarding hub (MASH)

15. The draft statutory guidance recommends that multi-agency safeguarding hubs (or similar) should be established by licensing authorities to improve the sharing of relevant information (paragraph 2.64). Do you agree with this recommendation?

Yes

No

No opinion

Comment below if you want to explain your answer.

MASHs should remain the remit of safeguarding authorities to ensure that all information is properly collated and dealt with. Licensing authorities should actively engage with the MASH to ensure that relevant information is properly shared and utilised.

12. Complaints against drivers and operators

16. The draft statutory guidance recommends that licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that must be displayed in licensed vehicles (paragraph 2.66). Do you agree with this recommendation?

Yes

No
No opinion

Comment below if you want to explain your answer.

No comment

13. Safeguarding awareness

17. The draft statutory guidance recommends that all licensing authorities should require drivers to undertake safeguarding training as a condition of licensing (paragraph 2.72). Do you agree with this recommendation?

Yes
No
No opinion

Comment below if you want to explain your answer.

Training should also include disability and equality issues. Refresher training should also be mandated. Every three years would seem appropriate in line with the issue of licenses. The training should also be mandated for operators and those involved in provision of vehicles. i.e. Radio Circuits

14. Language proficiency

18. The draft statutory guidance recommends that all licensing authorities should consider whether an applicant for a licence is able to communicate in English orally and in writing with customers (paragraph 2.79). Do you agree with this recommendation?

Yes
No
No opinion

Comment below if you want to explain your answer.

It is important for the passenger to be able to communicate with the driver particularly in case of any emergency.

15. Enforcement

19. The draft statutory guidance recommends that licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area (paragraph 2.81). Do you agree with this recommendation?

Yes
No
No opinion

Comment below if you want to explain your answer.

Such an agreement allows enforcement against out of town vehicles and reduces the opportunities for unregulated or un-roadworthy vehicles to operate thus safeguarding public safety.

16. Criminal record checks for PHV operators

20. The draft statutory guidance recommends that PHV operators (applicants or licensees) should be subject to a basic DBS check (paragraph 2.91). Do you agree with this recommendation?

Yes

No

No opinion

Comment below if you want to explain your answer.

This is a measure recommended by the Institute of Licensing, National Association of Licensing and Enforcement Officers, Local Government Association guidance.

17. PHV operators - ancillary staff

21. The draft statutory guidance recommends that PHV operators should, as a condition of licensing, be required to keep a register of all staff that will take bookings or dispatch vehicles (paragraph 2.97). Do you agree with this recommendation?

Yes

No

No opinion

Comment below if you want to explain your answer.

As such staff are in possession of personal knowledge and with basic certificates relatively easy to obtain, there is no reason why they should not be subject to a basic disclosure.

22. The draft statutory guidance recommends that PHV operators should be required to evidence that they have had sight of a basic DBS check on all individuals listed on the above register (paragraph 2.97). Do you agree with this recommendation?

Yes

No

No opinion

Comment below if you want to explain your answer.

See Q 21

23. The draft statutory guidance recommends that PHV operators should be required to provide to the licensing authority their policy on employing ex-offenders that will take bookings or dispatch vehicles as a condition of licensing (2.98). Do you agree with this recommendation?

Yes

No

No opinion

Comment below if you want to explain your answer.

If PHV operators are employing ex-offenders, they should be able to demonstrate that they have a policy in place to mitigate any potential risks. In particular consideration should be given to any offences disclosed on a basic DBS to ensure that the safety of the public or safeguarding of vulnerable children or adults is not compromised. The policy should clearly outline the steps to be taken.

18. PHV operators - use of passenger carrying vehicles (PCV) licensed drivers

24. The draft statutory guidance that a PHV operator may not use a driver who does not hold a PHV licence (but may hold a PCV licence) to use a public service vehicle to carry out a PHV booking. This would be a condition of the operator's licence (paragraph 2.100). Do you agree with this recommendation?

Yes

No

No opinion

Comment below if you want to explain your answer.

It is particularly important in respect of schools contracts to ensure that drivers are properly investigated and licensed. The situation described is a loophole in this respect and should be closed.

19. PHV operators – record keeping requirements

25. The draft statutory guidance recommends that PHV operators should, as a condition of licensing, be required to record the information detailed in paragraph 2.101. Do you agree with this recommendation?

Yes

No

No opinion

Comment below if you want to explain your answer.

Full details of the booking to include the name of the passenger, the time of the booking, the pick-up point, destination and both driver and vehicle details should be done for all bookings, including for the sake of clarity, those undertaken by hackney carriage vehicles working as PHV's.

It may also be useful to record any fare quoted and agreed.

20. In-vehicle visual and audio recording - CCTV

26. The draft statutory guidance recommends that licensing authorities should carefully consider potential public safety benefits and potential privacy issues when considering

mandating that taxis and PHVs have CCTV installed (paragraphs 2.104 to 2.109). Do you agree with this recommendation?

Yes

No

No opinion

Comment below if you want to explain your answer.

This is a matter for licensing authorities to decide upon following careful consideration and in the light of their own experiences. If adopted, care must be taken to comply with the requirements of the Information Commissioners Office. This will inevitably cause a greater workload for licensing authorities as they will potentially become the data controller if they mandate a blanket policy for adoption of CCTV.

27. The draft statutory guidance recommends that CCTV recordings in taxis and PHVs should be encrypted and accessible only by licensing authority officials (if acting a data controller), the police or when subject to a data subject access request (paragraph 2.114). Do you agree with this recommendation?

Yes

No

No opinion

Comment below if you want to explain your answer.

See 26 above

21. Stretched limousines

28. The draft statutory guidance recommends that licensing authorities should consider licensing vehicles with an Individual Vehicle Approval certificate, even if the passenger capacity is unclear, but under the strict condition that the vehicle will not be used to carry more than 8 passengers (paragraph 2.118). Do you agree with this recommendation?

Yes

No

No opinion

Comment below if you want to explain your answer.

Stretch Limousines must only be licensed if safe and suitable for use with the correct approvals. It may be difficult to enforce seating numbers other than by a condition and each proprietor should be made aware of the serious implications of non-compliance.

22. Previous convictions guidance

29. The draft statutory guidance recommends that the Department for Transport should issue guidance on the assessment of previous convictions (paragraph 2.50). Do you agree with this recommendation?

Yes

No

No opinion

Comment below if you want to explain your answer.

This should echo the content of the recent guidance issued by IoL, NALEO and LGA. A measure of consistency by licensing authorities in consideration of criminal convictions would be a major step forward.

30. Annex A of the draft statutory guidance provides a list of offences to aid consistency in the 'fit and proper' assessment for licences. Do you think that the list provides enough detail to do this?

Yes

No

No opinion

Comment below if you want to explain your answer.

The list gives enough detail to provide a basis for consideration. It will be for the licensing authority to deal with each case on its own merit and following a properly conducted investigation and hearing, decide accordingly, ensuring that all considerations and reasons are properly recorded as part of the decision making process. It should be made clear that the hearing may or may not be public depending upon the content of the evidence to be heard.

As with the Licensing Act 2003, it may be appropriate to draw up hearing guidelines if there is to be no legislation.

It should also be clear that these apply to operators as well as drivers.

31. Are there any offences that should be added to the list in Annex A?

Yes

No

No opinion

23. Other offences

32. If you answered yes, please list the offence(s) and the period you consider appropriate to prevent the granting of a licence under most circumstances.

There are a number of offences which may be committed under taxi and PHV legislation. Timescales should be commensurate with the seriousness and frequency of the offences. These would be as currently contained in the Council's convictions policy as agreed on 13th June 2017

24. Impact assessment

33. Do you have data relating to alleged offences committed in licensed vehicles either against or by passengers? If you have and are prepared to share this with us please add to your response.

No

34. If have any comments or other data that may be relevant to the Impact Assessment please provide this.

N/A

Ways to respond

Email this completed document to:

SG-Consultation2018@dft.gov.uk

Or post it to:

Department for Transport
Buses and Taxis Division (Statutory Guidance 2018 Consultation)
Great Minster House
33 Horseferry Road
London
SW1P 4DR

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Report of the Chief Executive

HACKNEY CARRIAGE AND VEHICLE LICENSING POLICY AMENDMENT1. Purpose of report

To ask Committee to consider amending the current Hackney Carriage and Private Hire Licensing Policy (the Policy).

2. Background

On 26 September 2017 The Licensing and Appeals Committee approved the new Hackney Carriage and Private Hire Licensing Policy. The Policy is a live document and as such requires revising and updating as matters arise.

3. Detail

Currently drivers and Private Hire Vehicle (PHV) operators are required to undertake a safeguarding course as part of the application process. Following discussions with the Nottinghamshire Authorities Licensing Group, it is proposed to include a requirement to undertake a 3 yearly refresher programme.

It is also proposed to clarify the specification for hackney carriage meters to ensure that the correct meters are requested and installed on licensed hackney carriage vehicles.

Details of the wording of the proposed amendments are contained in the appendix.

4. Financial Implications

Any financial implication is contained within existing budgets.

Recommendation

The Committee is asked to CONSIDER the amendments and RESOLVE accordingly

Background papers

Nil

APPENDIX

Safeguarding

In respect of drivers, the current policy approved by the Licensing and Appeals Committee on 26 September 2017 contains the following information in Section 5.9.

5.9 Safeguarding and Vulnerability Training

Every new applicant will undergo Safeguarding Vulnerable Passengers training before a licence is issued. The training involves attending a training session at a location approved by the Council and the applicant will also complete and pass a test at the end of the session. Current licence holders will also undertake the training within twelve months of the renewal dates of their licence.

Failure to pass the test will result in the applicant or current licence holder re-taking the training session and exam at their own cost.

Should the applicant or current licence holder fail the test for a third time, in the case of a new applicant the application will be refused, in the case of a current driver the application to renew will be refused or when mid-term of a licence it may be revoked.

It is essential that young, elderly and other vulnerable people are safeguarded and protected whilst being transported in a licensed vehicle. Accordingly a specific Code of Conduct must be complied with when working with vulnerable passengers. This is provided at Appendix C.

It is proposed to insert the following text after the current paragraph 3.

“Licence holders are required to refresh their training by undertaking the safeguarding course every three years as a requirement of retaining their licence. Failure to undertake such training may result in the revocation of the licence”

In respect of Private Hire Operators, the current policy approved by the Licensing and Appeals Committee on 26 September 2017 contains the following information in Section 8.6.

8.6. Safeguarding Training

All new applicants will be required to attend and pass a Safeguarding Vulnerable Passengers training course prior to a licence being granted.

Current licence holders will also be required to undertake and pass the training before 31st January 2018.

Failure to do so may result in immediate suspension, revocation and/or another course of action deemed appropriate by the Council.

The training will involve attending a session at a location approved by the Council. At the end of the session all applicants will be required to pass a test.

Failure to pass the test will result in the licensee re-taking the training session and exam at their own cost and within a specified amount of time.

The initial test fee is included in the application fee. All re-tests will be charged in accordance with the fees set by the Council.

If an applicant is unable to pass the test after three attempts:

- New applications and renewals will be refused;
- Current licences will be revoked.

It is proposed to insert the following text at the end of the section.

“Licence holders are required to refresh their training by undertaking the safeguarding course every three years as a requirement of retaining their licence. Failure to undertake such training may result in the revocation of the licence”

Meters

The current policy approved by the Licensing and Appeals Committee on 26 September 2017 contains the following information in Section 6.12.

6.12 Meters

All hackney carriages must be fitted with a calendar controlled meter.

Meters used to calculate fares must be accurate, display the correct time and be capable of displaying:

- In the case of hackney carriages, the various tariffs as approved by the Council (including extra charges recoverable under the approved Table of Fares). The meter shall be calibrated and set to the Council’s agreed charging distances and tariffs currently in force.
- In the case of private hire vehicles, any scale of charges which will be provided by the Private Hire operator.

Meters will be checked for accuracy by a measured mile distance or by waiting time.

Meters must be positioned in order that the fare must be clearly displayed to the passenger throughout the journey.

Meters in use must not facilitate fraudulent use. Any signs of tampering will result in a suspension notice being issued immediately. For the suspension notice to be removed, the vehicle meter must have been checked and calibrated by an approved meter company and presented to the Council for inspection.

Private Hire Operators and / or drivers may agree a cost for the journey with the customer prior to the journey commencing. In this situation, the price quoted is the price that must be charged – there is to be no deviation from this price without the agreement of the customer.

On occasions where a price has been not been agreed prior to the journey commencing, the fare charged must be that which is reflected on the meter where the vehicle is equipped with a meter

It is proposed to insert the following text at the start of the section, replacing the opening sentence

“Taximeters fitted to Broxtowe Borough Council Hackney Carriages must be of a type previously approved for use under the Measuring Instruments (taximeters) Regulations 2006, and any currently licensed vehicle presented to the Council after 1 April 2020 for a Hackney Carriage licence must be fitted with a calendar controlled taximeter, locked and sealed by the manufacturer/supplier so that tariff rates change automatically and cannot be changed or tampered with manually by any person. A certificate of calibration must be provided.

All new vehicles presented to the Council after 1 April 2019 for a Hackney Carriage licence must be fitted with such a meter and provide a certificate of calibration.”