

APPENDIX 1

In July 2020 the Department for Transport issued new Statutory Guidance on Taxi and Private Hire Vehicle Standards focusing on the role of taxi licensing powers and enhanced regulation in protecting children and vulnerable adults. The guidance sets out core minimum standards that all licensing authorities are expected to meet in order to further safeguard vulnerable passengers, increase safety for the travelling public in general and comply with the statutory guidance changes to the Hackney Carriage and Private Hire Licensing Policy are proposed.

These standards are an important first step in reforming the way the taxi (HC) and private hire vehicle (PHV) sector is regulated and should ensure consistent standards between licensing authorities.

Para 1.3 of the Standards states:

*There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.***

The current Hackney Carriage and Private Hire Licensing Policy was revised on 12 March 2019 and continues to be effective in ensuring that those applicants and / or licence holders that do not take seriously the need to safeguard children and vulnerable persons or promote the need for public safety and public confidence in the trade are adequately dealt with.

Due to the work already undertaken both by Broxtowe Borough Council and in conjunction with the other Nottinghamshire authorities in developing the current Policy, the additional requirements placed on the Council by the Statutory Standards can be very easily implemented, and these requirements are listed below (and highlighted in yellow within the Draft Revised Hackney Carriage and Private Hire Licensing Policy attached at **Appendix Two**):

Major recommendations from the document

The document 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.

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.

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.

The recommended review period is incorporated into the draft policy.

The proposed changes to the policy will be consulted upon and responses reported back to the Licensing and Appeals Committee.

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.

local authorities should ensure they have an effective ‘whistleblowing’ policy and that all staff are aware of it.

The Council has an effective “whistle blowing “policy in place.

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.**

Broxtowe Borough Council meets with its Nottinghamshire counterparts on a regular basis and the Statutory document together with the implications has been discussed on a number of occasions.

Any changes in licensing requirements should be followed by a review of the licences already issued.

Councillors may wish to consider such a step following adoption of the draft policy.

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.

The countywide Taxi Licensing Group is in discussion with Nottinghamshire Police and the Office of the Police and Crime Commissioner to ensure such procedures and policies are put in place on a formal footing.

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.

Broxtowe Borough Council is engaged in such processes and has referred such an individual previously following revocation of his driver badge.

Action taken by the licensing authority as a result of information received should be fed-back to the police.

This will form part of the policies and procedures agreed with Nottinghamshire Police and the Office of the Police and Crime Commissioner.

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.

This is already a requirement for new applicants and licensees.

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.**

Broxtowe Borough Council has been signed up to NR3 for the past two years.

All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.

Complaints reported to the council are recorded and acted upon. The Licensing and Appeals Committee recently revoked a licence following a number of complaints recorded against a particular driver.

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.

The Licensing Manager in conjunction with the Legal team undertakes training for members on a regular basis. Countywide training for members has also been provided. This will continue to take place with emphasis on areas indicated in the standards recommendation.

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.

Such a procedure is in place within the council's scheme of delegation.

"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."

The draft policy has been amended to implement this recommendation.

In the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list.

The “barred lists” referred to relate to

1. People who are barred from working with children
2. People who are barred from working with vulnerable adults

All licensed drivers are required to undertake a Disclosure and Barring Service check which includes a check on both barred lists. This has been a standard requirement for a number of years.

Vehicles

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

This is a new recommendation that vehicle proprietors both HC and PHV provide an annual Basic DBS check. A Basic check provides details of “unspent” convictions and conditional cautions of the applicant.

It has not previously been thought necessary to check the status of vehicle owners.

The draft policy has been amended to include this requirement

Operators

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

Currently a basic DBS check is required upon application for a private hire operator licence.

The draft policy has been amended to include this requirement

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.

The draft policy has been amended to include this new requirement

Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking.

The document recommends a number of details to be recorded. The current policy has much of this already in place and the draft policy has been amended to update this requirement.

Convictions

Authorities must consider each case on its own merits, and applicants/licenses are entitled to a fair and impartial consideration of their application. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.

The Councils current policy was revised in September 2017. The recommended standard goes further than the current policy and details are shown below together with a list of other amendments to the policy. Tariffs are increased in many cases.

Policy Amendments

Reference	Amendment	Rationale
Section 1	This policy will be reviewed every 5 years but may be subject to interim reviews should the need arise	New requirement
Section 5.4	The Licensing Authority requires all drivers to fund, obtain and produce an enhanced DBS check every six months and the details contained within this will be retained by the Licensing Authority. Licence holders are required to subscribe to the DBS Online Update. The update service can be used if an application is made for a renewal or six monthly check and there have been no changes. If no changes are recorded on the DBS certificate, then a full DBS check will not be required. In all other cases a full Enhanced DBS check will be required before a licence will be renewed/issued	New Requirement to produce DBS every 6 months.
Section 5.4	<u>DVLA Driving Licence Check</u> All applicants for and holders of a hackney carriage/private hire driver's badge will be required to have a six monthly DVLA check of their driving licence record. A driving licence check code must be provided to the Council to enable this to take place.	New requirement (not required by Standards but brings check procedure in line with DBS requirement)
Section 6.1	A Basic DBS Disclosure Certificate (No older than 31 days) or permission to access the update	New Requirement

	service if the applicant is not the holder of a current Hackney Carriage/Private Hire Driver Licence or Private Hire Operator Licence issued by Broxtowe Borough Council.	
Section 8.3	The Licensing Authority requires that all operators (all partners /directors) fund, obtain and provide a basic DBS certificate annually if the applicant is not the holder of a current hackney carriage/private hire driver licence or private hire operator licence issued by Broxtowe Borough Council. If the Operator holds a current hackney carriage/private hire driver licence, permission to access the Update Service will be acceptable.	New Requirement
Section 8.9h	The Operator is required to maintain a register of all staff whose work consists of taking bookings and dispatching vehicles, and that such staff have provided the Operator with a Basic DBS Disclosure and that such checks are reviewed annually, and certainly prior to a new employee commencing work	New requirement
Section 8.9i	The Operator is required to maintain a Policy on the employment of ex-offenders who may work for the Operator or undertake work on behalf of the Operator in order to ensure such persons do not pose a risk to the safety of The public. Applicants and licence holders are advised to note the position the Council takes in its Relevant Convictions Policy (Appendix B) when formulating such a Policy.	New requirement
Section 8.9j	The Operator will ensure that the company maintains a Safeguarding Policy that addresses the needs of the protection of children and vulnerable adults for whom the Operator provides transport services. Such a Policy shall also include the matters referred to at items h and i above.	New requirement
Section 8.9k	The Operator is required to evidence that any other Operator to whom they sub-contracts bookings, has necessary comparable protections in place for the safeguarding of children and vulnerable adults.	New requirement

Appendix B 5.1(a)	<p>Exploitation</p> <p>Where an applicant or licence holder has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not normally be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse. Such offences include but are not limited to:</p> <ol style="list-style-type: none"> 1. Slavery 2. Trafficking 3. Child sexual abuse 4. Exploitation 5. Grooming 6. psychological, emotional or financial abuse 7. Kidnapping or abduction 8. Or any similar offences (Including attempted or conspiracy to commit) offences which may replace the above 	New Section
Appendix B 5.4	<p>Discrimination</p> <p>A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below and at least 5 years have passed since the completion of any sentence and/or licence period:</p> <ol style="list-style-type: none"> 1. Racially-aggravated criminal damage 2. Racially-aggravated offence 3. Hate crime against a person or persons 4. Hate crime against property 5. Or any similar offences (including attempted or conspiracy to commit offences) which replace the above. 	New heading Amended section
Appendix B 5.5	<p>A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below and at least 10 years have passed since the completion of any sentence and/or licence</p>	Increase from 7 to 10 years as Recommendation

	<p>period:</p> <ol style="list-style-type: none"> 1. Common assault/Battery 2. Assault occasioning actual bodily harm 3. Affray 4. S5 Public Order Act 1986 offence (harassment, alarm or distress) 5. S.4 Public Order Act 1986 offence (fear of provocation of violence) 6. S4A Public Order Act 1986 offence (intentional harassment, alarm or distress) 7. Obstruction 8. Criminal damage 9. Harassment 10. Offences involving anti-social behaviour 11. Or any similar offences (including attempted or conspiracy to commit offences) which replace the above 	
Appendix B 5.8	<p>Possession of a weapon</p> <p>If an applicant has been convicted of possession of a weapon or any other weapon related offence, depending on the circumstances of the offence, at least 7 years must have passed since the completion of the sentence, before a licence is granted.</p>	Recommendation Increase from 3 to 7 years
Appendix B 5.9	<p>Sexual and indecency offences</p> <p>As licensed drivers often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely scrutinised. All sexual offences should be considered as serious. Applicants with convictions for sexual offences will normally be refused a licence upon application, renewal or review.</p> <p>Such offences include:</p> <ol style="list-style-type: none"> 1. Rape 2. Assault by penetration 3. Offences involving children or vulnerable 	Recommendation Section amended.

	<p>adults</p> <ol style="list-style-type: none"> 4. Grooming, Trafficking or other Sexual Exploitation related offences (adults and/or children) 5. Making or distributing obscene material 6. Possession of indecent photographs depicting child pornography. 7. Sexual assault 8. Indecent assault 9. Exploitation of prostitution 10. Any similar offences (including attempted or conspiracy to commit offences) which replace the above 11. Making indecent telephone calls 12. Importuning 13. Indecent exposure 14. Soliciting (kerb crawling) 15. Any similar offences (including attempted or conspiracy to commit offences) which replace the above. 	
Appendix B 5.13	Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed. Offences involving dishonesty include but are not limited to	Recommendation Increase from 5 to 7 years
Appendix B 5.23	<p>Driving offences involving alcohol and/or drugs</p> <p>A serious view will be taken of convictions of driving, or attempting to drive, or being in charge of a vehicle while under the influence of drink or drugs. Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed</p> <p>In the case of driving under the influence of drugs, any applicant or licence holder may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.</p>	Recommendation Increase from 5 to 7 years
Appendix B 5.24	More than one conviction for this type of offence or one such offence within the last 7 years is	Recommendation Increase from 5 to

	likely to merit refusal. In addition, applicants will normally be required to show a period of at least 7 years has elapsed after completion of detoxification treatment if (s)he was an alcoholic or drug addict.	7 years
Appendix B 5.36	<p>Using a Hand-held Device Whilst Driving</p> <p>Where an applicant has a conviction for using a hand held mobile phone or a hand held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later</p>	Recommendation New offence
Appendix D 24	The driver shall, within 48 hours, disclose in writing to the Council details of any arrest and release, charge or conviction of any sexual offence, any other criminal offence and any motoring offence.	Recommendation Reduced from 7 days to 48 hours
Appendix F	<p>The applicant is required to sign up to the DBS Update Service as this will allow the Council to undertake six-monthly checks (or more frequent checks if deemed appropriate) at a significantly reduced cost to the applicant.</p> <p>The applicant will be sent a printed DBS disclosure certificate which they will be required to provide to the Licensing Section.</p> <p>A licence will not be issued without the Council having viewed a copy of the DBS certificate.</p> <p>Once a DBS certificate is received the applicant has period of 30 calendar days to subscribe to the DBS update service.</p> <p>The Council requires all drivers to undergo a DBS every six months and upon renewal. Signing up to the DBS update service will enable the Licensing Authority to undertake this check on behalf of the applicant. If this service is not subscribed to, it will be the responsibility of the applicant to ensure a DBS certificate is available on the relevant date</p>	Amended condition to 6 monthly checks
Appendix K 16	Each member of staff must provide to the operator a valid basic DBS certificate on an annual basis and prior to commencement of employment.	New condition

	The register must be made available to an authorised officer on request	
Appendix K 17	The operator shall implement and maintain a policy relating to the employment of ex-offenders. The policy must be provided to the Licensing Authority upon being implanted. The policy must be made available to an authorised officer on request.	New condition
Appendix K 18	The operator shall implement and maintain a safeguarding policy that demonstrates the steps taken to protect children and other vulnerable adults for whom the operator provides transport services	New condition
Appendix K 19	The operator shall ensure that any other operator to whom they sub-contract bookings also has a similar policy in place to protect children and other vulnerable adults.	New condition
Appendix K 20	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	New condition